

Supplement to

INFORMATION LETTER

Not for
Publication

NATIONAL CANNERS ASSOCIATION

For Members
Only

No. 1482

Washington, D. C.

April 10, 1954

N.C.A. Presentation before the Senate and House Committees on Agriculture in Opposition to Legislation Proposing to Authorize Marketing Orders on Canning Crops

Canning industry opposition to legislation to authorize marketing orders on canning crops, under authority of the Agricultural Marketing Agreement Act of 1937, was presented to the Senate and House Committees on Agriculture respectively on April 5 and April 9.

Seven canners, on their own behalf and for the industry, followed N.C.A. Counsel in statements opposing provisions in a bill before the Senate, S. 3052, and a proposal before the House Committee that would add fruits and vegetables for canning and freezing to the list of commodities for which marketing orders would be authorized.

The seven canner witnesses, in order of their appearance, were O. E. Snider, Blue Lake Packers, Inc., Salem, Ore.; John E. Dodds, Schuckl & Co., Inc., Sunnyvale, Calif.; Howard T. Cumming,

Curtice Brothers Co., Rochester, N. Y.; Louis Ratzesberger, Jr., Illinois Canning Co., Hoopeston, Ill.; Gilbert J. Hipke, A. T. Hipke & Sons, Inc., New Holstein, Wis.; Fred M. Moss, Idaho Canning Co., Payette, Idaho; and Edwin C. Kraus, Big Stone Canning Co., Ortonville, Minn.

In this Supplement to the INFORMATION LETTER is a composite of the two Committee hearings. Here are reproduced the N.C.A. statement by H. Thomas Austern, Chief Counsel, before the Senate Committee; the statements of the seven canner witnesses before the House Committee; and a transcript of selected interrogation by members of both Committees, except that questions by members of the House Committee are paraphrased in compliance with a Committee rule against quoting a member from an uncorrected transcript.

N.C.A. Presentation on Marketing Orders

| | PAGE |
|---|------|
| Statement by H. Thomas Austern | 3 |
| Statement by O. E. Snider | 12 |
| Statement by John E. Dodds | 14 |
| Statement by Howard T. Cumming | 15 |
| Statement by Louis Ratzesberger, Jr. | 16 |
| Statement by Gilbert J. Hipke | 17 |
| Statement by Fred M. Moss | 18 |
| Statement by Edwin C. Kraus | 19 |
| Questions by the Senate Agriculture Committee | 20 |
| Questions by the House Agriculture Committee | 22 |

What a Marketing Order Can Do

[The following summary of what a marketing order can do was prepared by N.C.A. and presented to the House Agriculture Committee.]

- (1) Control the
 - quantity
 - quality
 - grade
 - size
 - amount from each grower of every canner's raw material. (Sec. 8c(6) (A) and (B) of the Act.)
- (2) Limit thereby the total production
 - nationally
 - by region
 - by area
 - by canner
 of any canned item. (Sec. 8c(6) (A) and (B), Sec. 8c(11) of the Act.)
- (3) Allocate available raw material between
 - canning
 - freezing
 - drying
 - fresh market
 outlets. (Sec. 8c(6) (A) and (B) of the Act.)
- (4) Do each of the above on a
 - day-to-day
 - week-to-week
 - month-to-month
 - seasonal
 basis. (Sec. 8c(6) (A) and (B) of the Act.)
- (5) Provide for
 - "determination" of "surpluses"
 - disposition of "surplus"
 - establishment of reserve pools for any canning crop. (Sec. 8c(6) (D) and (E) of the Act.)
- (6) Require inspection and install an inspection system. (Sec. 8c(6) (F) of the Act.)
- (7) Regulate cannery practices in the procurement of raw material, including
 - handling of crop receipts
 - waiting time
 - field boxes
 - operation of vining stations, etc.
 (Sec. 8c(7) (A) of the Act.)
- (8) Provide for
 - market research
 - market development
 - advertising
 for any canning crop. (Sec. 8c(6) (I) of S. 3052 and House Committee print.)
- (9) Assess canners alone for the cost of
 - administration
 - inspection systems
 - market research and promotion
 (Sec. 10(b) (2) (ii) of the Act.)

Senate Committee on Agriculture

George C. Aiken, Vermont
 Milton R. Young, North Dakota
 Edward J. Thyne, Minnesota
 Bourke B. Hickenlooper, Iowa
 Karl E. Mundt, South Dakota
 John J. Williams, Delaware
 Andrew F. Schoepel, Kansas
 Herman Welker, Idaho

Allen J. Ellender, Sr., Louisiana
 Clyde R. Hoey, North Carolina
 Olin D. Johnston, South Carolina
 Spessard L. Holland, Florida
 Clinton P. Anderson, New Mexico
 James O. Eastland, Mississippi
 Earle C. Clements, Kentucky

House Committee on Agriculture

Clifford R. Hope, Kansas
 August H. Andresen, Minnesota
 William S. Hill, Colorado
 Charles B. Hoeven, Iowa
 Sid Simpson, Illinois
 Ernest K. Bramblett, California
 Paul B. Dague, Pennsylvania
 Ralph Harvey, Indiana
 Harold O. Lovre, South Dakota
 Page Belcher, Oklahoma
 Clifford G. McIntire, Maine
 James S. Golden, Kentucky
 William R. Williams, New York
 Karl C. King, Pennsylvania
 Robert D. Harrison, Nebraska
 William C. Wampler, Virginia
 Joseph R. Farrington, Hawaii

Harold D. Cooley, North Carolina
 W. R. Poage, Texas
 George M. Grant, Alabama
 E. C. Gathings, Arkansas
 John L. McMillan, South Carolina
 Thomas G. Abernethy, Mississippi
 Carl Albert, Oklahoma
 Watkins M. Abbitt, Virginia
 James G. Polk, Ohio
 Pat Sutton, Tennessee
 W. M. (Don) Wheeler, Georgia
 Clark W. Thompson, Texas
 Paul C. Jones, Missouri
 A. S. Herlong, Jr., Florida
 E. L. Bartlett, Alaska
 A. Fernos-Isern, Puerto Rico

STATEMENT

By H. Thomas Austern

[Following is the complete text of the statement prepared for delivery by Mr. Austern.]

My name is H. T. Austern, of the National Canners Association, a non-profit trade association with 1000 members canning in 44 states and each of the territories. These pack approximately 80 percent of the entire national production of canned fruits, vegetables, specialties, and fish.

Our membership includes every type of canner—-independent, cooperative, large and small.

There are seven canner witnesses from seven states who will appear today. I have been asked to make an introductory statement.

Specifically, the canning industry opposes Section 401, subparagraphs (a) and (b) in Title IV, on page 13 of S. 3052.

These amendments would subject the canning of fruits and vegetables to compulsory—not voluntary—control by marketing orders.

In various forms this same proposal has been before Congress 10 times since 1934. It has been rejected by Congress 10 times in these 20 years.

The compelling reasons for rejection are undoubtedly familiar to many members of this Committee since the issues were fully explored in extensive hearings before both the Senate and House Committees on Agriculture five times before the war—in 1934, 1935, 1937, 1939, and 1940—and in full postwar hearings in 1947 and 1948.

To save time, may I ask that the summarized historical review of this subject found in the 1947 House hearing be included in this record at this point.

The fundamental issue before you today can be simply stated:

Is the production of canned fruits and vegetables throughout 44 states to be permitted to continue its own magnificent development—or is it now to be subjected to mandatory control by those *not engaged* in processing, unfamiliar with the packing and merchandising of canned foods, and on the basis that the canners are to have no voice either in the imposition, or the operation, of these controls, but are to be relegated merely to paying for them.

Over the years Congress has been asked to confer that wide authority upon the Secretary of Agriculture and growers. The proposal has been advanced in many guises—as over-all “emergency legislation”, as an “experimental” measure, and as a supposed panacea for particular canning crops.

Experience has abundantly shown that each reason was unfounded. In-

deed, the proponents now appear candidly to admit that our opposition and the Congressional rejection were soundly based.

But once again the child has been given a new dress. You are told that the new proposal is not to control the production and the marketing of canned foods—but merely what may be canned.

Against their will, and even over their best judgment, canners are to be subjected to *mandatory orders*—that may prescribe what can be packed by each canner, in every processing area, at any time, by controlling what he may take from each and every grower.

The old proposal was equivalent to asking authority to control every action of a man within his own workroom. This new one, we insist, achieves the same effect by cutting off his supply of oxygen. For if you control and regulate the raw material for canning, you can economically suffocate this industry.

Thus once again this Committee is asked to turn the economic regulation of canning over to those not engaged in canning—and to do so even when the canners insist that the proposed controls would be unwise, impracticable, and detrimental to consumer, canner, and grower alike.

Why? No facts are advanced. No need is disclosed. It is merely recited that some growers in some areas have expressed interest in getting this authority to control canning, to regulate canners against their will, and to assess them for the cost of unnecessary control schemes they do not want.

With your permission, we shall this morning summarize our opposition under three headings.

First, we shall briefly outline the performance of the fruit and vegetable canning industry during the 20 years in which this proposal has been repeatedly urged and constantly rejected by Congress.

We shall do so in terms of the vastly increased canning production developed in so many states, and the resulting great increases in tonnage and return to thousands of growers.

We shall show how this industry—when left free to grow—has increased the per capita consumption of canned fruits and vegetables to unprecedented heights, even with our constantly increasing population.

We shall indicate what this has meant in increased prices per ton to growers of canning crops, in the development of greater yields per acre, and in enhanced grower return.

Of keen interest to this Committee will be the further demonstration that all of this has been done even while the relative cost of canned foods to the

consumer has been kept far below that of any other comparable item in the housewives' market basket.

Second, we shall analyze Title IV of the bill before you to demonstrate that its simplicity is delusive—that it creates a host of legal ambiguities, and does not even fit the statutory structure it supposedly amends—and that in realistic economic effect it is the same old unsound proposal for mandatory control of this industry.

Lastly, through representative canner witnesses from many states, we shall develop in practical operating detail the reasons why this proposal is unsound, thoroughly unworkable, shockingly undemocratic, and contrary to the basic concepts in the overall farm proposals now before you.

In his message of January 11, 1954, transmitting his agricultural program, President Eisenhower recommended the use of marketing agreements for those “commodities to which marketing agreements are adapted.” We shall demonstrate to the Committee that the proposal before you deals not with real agreements, but with mandatory orders—and that these orders are not adaptable to canning crops.

Simply as a preliminary catalog may I, at this point, summarize for the Committee these key reasons which will be separately amplified by these canners.

To begin with, we are not dealing with marketing *agreements*, but with control *orders* imposed where there is no agreement. This amendment authorizes *orders* even where canners may insist that the proposed controls are unwise and destructive.

These *orders* are to control the *canner*—not the *crop*. Orders are necessarily directed to people, not to commodities. Canners alone will be subject to these orders, and the failure to obey any provision of any order will be punishable by forfeiture and criminal penalties.

To limit what a canner may purchase for processing—to do so by area, by size, by grade, and by telling him from whom he may purchase—effectively controls the canner's entire operations.

The advance planning essential to canning, the contracting of acreage, and the marketing of what is processed cannot be carried on where control of the raw material is thus taken out of the canner's hands. Our witnesses will tell you why further investment, growth, or development of canning cannot be ventured in any area under these conditions.

Particularly will the smaller canners tell you how important volume is to cost, and how restriction on the use of raw material can mean the economic death of the small processor.

To be effective, controls on canning crops must be established and allocations of raw material made on a national basis because the processing of major fruits and vegetables and their products is carried on in so many states.

Mandatory control over the production of staple canned foods cannot be related to the existence of controls upon the week to week marketing of fresh fruits or vegetables. The two operations are completely different. In canned foods there is year-round marketing and the necessity for detailed pre-season planning of production.

As our witnesses will show, the curtailment and control of what may be purchased for canning must be predicated upon historical production in each area and for each canner. The inevitable result is that new canning areas could no longer be developed. Over-all, the competitive position of every canning state, every canner, every local area, and every grower will be frozen.

Any order that seeks to control the disposition of any surplus of a *perishable* canning crop is impracticable. Canning crops that cannot be processed cannot be carried as surplus. To assess the canner for the costs of what he cannot process and market is unconscionable. For a control order to destroy crops which the canner is ready and able to preserve—and to carry the risk of marketing—would be criminal waste.

Mandatory orders, imposed and administered by growers alone, would remove from free bargaining every aspect of canning crop planning and procurement. It would shackle the canner and give to one party control over acreage contracting, the quality

and grade of raw material as well as put inspection and grading under the grower control alone.

The canner, who has the largest investment in the finished product, who alone carries all of the risks following packing, who particularly is knowledgeable as to canned food merchandising, is to be given no voice in the administration of the control program that so vitally can throttle his operations. Administration by groups of growers alone is authorized by this proposal.

These controls by mandatory order are to be imposed without the canner's consent, yet he is to be assessed for the costs of their operation by private groups. The large sums to be exacted would not be subject to Congressional control or appropriation, and these assessments would continue indefinitely wholly apart from price levels or production.

Promotion of canned food marketing is the canner's job. To assess him for perpetual and costly marketing research programs, imposed and run by others, is meaningless. One might just as well turn over to cotton growers the design and selling of women's dresses on the theory that cotton is used in them.

Finally, to limit the amount of canning crops that can be packed will not afford new markets for any grower. Instead, it will work a curtailment of this constantly increasing outlet for canning crops.

The objectives sought by this amendment are plainly to control the price of canned foods. There is no disclosed necessity for doing so. Curtailment of raw material and of canned food production must be intended to increase price. If the consumer refuses to purchase, it will be the canner, and

neither the growers nor the government, who will be left with the unsalable product.

Each of these points catalogued will be developed for the Committee by operating canners in the practical context of this industry.

As necessary statistical background, we first present the over-all canning industry picture and performance.

In presenting these charts, we ask the Committee to view them in several ways.

On each point in our story, we respectfully suggest that you ask yourself these questions:

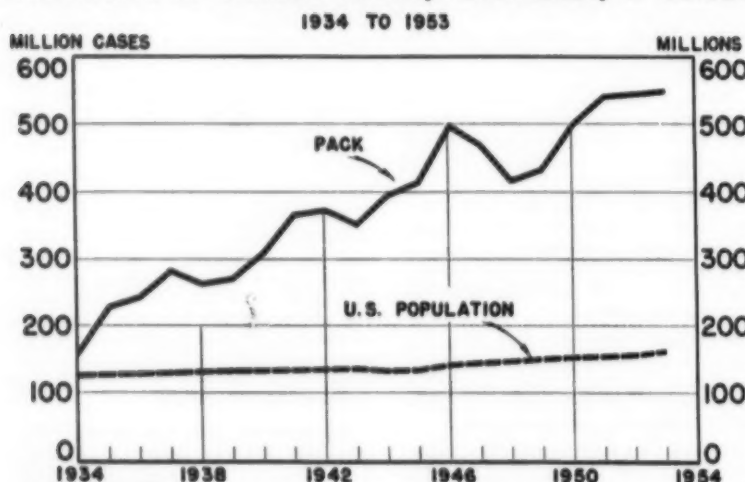
Could this splendid job in serving both the growers and the consumers ever have been achieved if the mandatory controls of production—that Congress has refused to authorize for two decades—had in fact been put into effect over canner objection?

Does not this record abundantly answer all the claims and apprehensions advanced by those who have unsuccessfully sought these mandatory controls over 20 years?

Is not this record of the canning industry a persuasive confirmation of the observation of Mr. Kline of the American Farm Bureau Federation that, "in the final analysis there is no substitute for markets," and that any basic loss of the free price mechanism cannot ever be replaced?

Is not the achievement of the canning industry which we now disclose—accomplished without its production being controlled by others against its will—abiding proof of what Mr. Newsum of the Grange told this Committee two weeks ago, that "As each individual is more free to plan, to produce and to utilize such skill as he has and such resources and material as are

PRODUCTION OF CANNED FRUITS, VEGETABLES,¹ & JUICES²



¹ Includes specialties
² Includes frozen concentrates

Production of Canned Fruits, Vegetables and Juices

| Year | Fruits ^a | Frozen Vegetables ^b | Juices ^c | Total |
|--------------------------------|---------------------|--------------------------------|---------------------|-------|
| —(millions of standard cases)— | | | | |
| 1934..... | 45 | 115 | 180 | |
| 1935..... | 58 | 172 | 230 | |
| 1936..... | 65 | 177 | 242 | |
| 1937..... | 78 | 206 | 284 | |
| 1938..... | 68 | 193 | 261 | |
| 1939..... | 81 | 189 | 270 | |
| 1940..... | 89 | 219 | 308 | |
| 1941..... | 98 | 269 | 367 | |
| 1942..... | 107 | 265 | 372 | |
| 1943..... | 103 | 248 | 351 | |
| 1944..... | 122 | 272 | 394 | |
| 1945..... | 136 | 278 | 414 | |
| 1946..... | 157 | 339 | 496 | |
| 1947..... | 148 | 320 | 468 | |
| 1948..... | 136 | 3 | 278 | 417 |
| 1949..... | 138 | 15 | 279 | 432 |
| 1950..... | 164 | 35 | 288 | 500 |
| 1951..... | 150 | 46 | 347 | 543 |
| 1952..... | 149 | 66 | 330 | 545 |
| 1953..... | 143 | 70 | 334 | 547 |

^a Includes hot-pack juices. ^b Includes vegetable juices and specialties. Fruit basis 24/2½, all others 24/2.

available, he will be a greater individual economically."

Most important, gentlemen, ask yourselves whether the canning industry needs to be put in a control straitjacket, or to have mandatory orders imposed on what each canner may produce and thus may sell.

These charts will quickly, graphically, and dramatically tell our story.

The first chart shows the over-all astounding increase in the production of canned fruits, vegetables, and juices between 1934 and 1953.

We have picked 1934 for comparison because that was the year that the agitation began for involuntary government controls of canned food production—supposedly to develop more and better markets for canning crops.

You will see that canned fruit and vegetable production increased from 160 million cases in 1934 to 547 million in 1953. Our production in 1953 was 340 percent of 1934.

At the same time you will see that the population of the United States in 1953 had increased to only 127 percent of what it was in 1934.

In the attached detailed figures, you will also observe that between 1934 and 1940 canned fruit and vegetable production almost doubled. Had controls held down this production, we know that the canning industry could not have met the demands made upon it by the armed services during the war. You can also see that we have had a continued increase since 1946.

The next chart shows the increase in per capita consumption of canned fruits, vegetables, and juices. The number of pounds per capita of these products annually consumed in the United States has more than doubled—it has gone from little over 42 pounds to about 104½ pounds per capita.

Next we have five maps which illustrate the grower side of this development. They show the vast increase in tonnage of canning crops which have gone into this increased production.

Equally important, they show the striking fashion in which states that 20 years ago had either little or no production today enjoy vast tonnages of canning crops.

These maps inescapably reveal that any control of canning crops for processing—necessarily based on historical patterns—would have forestalled this tremendous development.

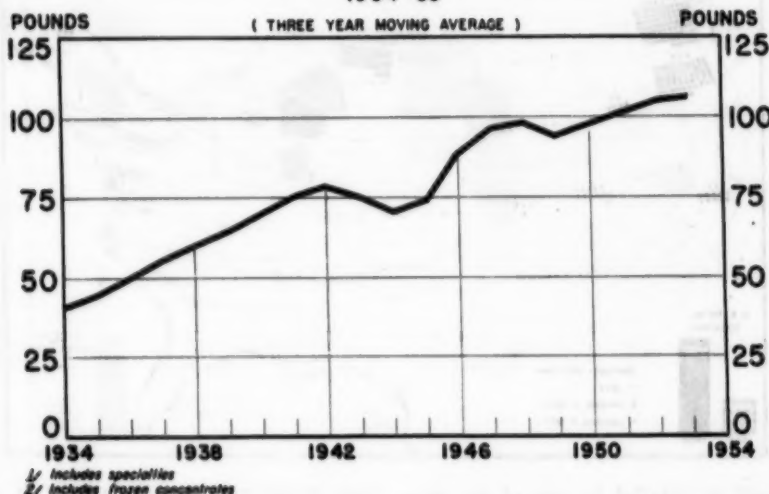
You will notice that attached to each copy of these charts and maps as reduced for your use, we have included the statistical data on which it rests.

The first map (page 6) shows the story on peas. Each dot represents 1,000 tons for processing. The X's show the production in 1934. The large round dots show the increase by 1953.

Please note the striking increases in the Midwest. In 1953 pea tonnage

PER CAPITA CONSUMPTION OF CANNED FRUITS, VEGETABLES, AND JUICES^{1/2}

1934-53



Canned Foods: Average per Capita Consumption
Three-year Moving Average

| Year | Fruits | Fruit Juices | Vegetables | Fruits Juices Veg. Total | Specialties | Frozen Juices | Total |
|------|--------|--------------|------------|--------------------------|-------------|---------------|-------|
| | | | | | | | |
| 1934 | 11.4 | .47 | 22.4 | 34.3 | 7.0 | ... | 42.2 |
| 1935 | 12.4 | 1.0 | 23.7 | 37.1 | 8.5 | ... | 45.6 |
| 1936 | 14.1 | 1.6 | 25.5 | 41.2 | 9.4 | ... | 50.6 |
| 1937 | 14.4 | 3.1 | 27.5 | 45.0 | 11.1 | ... | 56.1 |
| 1938 | 15.1 | 3.8 | 29.1 | 48.0 | 12.6 | ... | 60.6 |
| 1939 | 14.9 | 5.0 | 30.5 | 50.4 | 14.1 | ... | 64.5 |
| 1940 | 16.7 | 5.9 | 32.2 | 54.8 | 15.1 | ... | 69.9 |
| 1941 | 17.5 | 7.2 | 34.3 | 59.0 | 16.7 | ... | 75.7 |
| 1942 | 18.1 | 8.1 | 37.0 | 63.2 | 15.0 | ... | 78.2 |
| 1943 | 16.1 | 8.1 | 37.8 | 62.0 | 13.1 | ... | 75.1 |
| 1944 | 13.2 | 8.7 | 36.8 | 58.7 | 11.8 | ... | 70.5 |
| 1945 | 12.1 | 9.5 | 37.9 | 59.5 | 14.7 | ... | 74.2 |
| 1946 | 15.1 | 13.0 | 41.2 | 69.3 | 18.2 | ... | 87.5 |
| 1947 | 18.1 | 14.7 | 43.1 | 75.9 | 20.2 | ... | 96.1 |
| 1948 | 19.2 | 16.8 | 41.2 | 77.2 | 20.2 | 1.4 | 97.5 |
| 1949 | 18.0 | 16.1 | 38.4 | 72.5 | 20.1 | 1.12 | 93.7 |
| 1950 | 18.9 | 15.5 | 38.9 | 73.3 | 20.7 | 2.78 | 96.9 |
| 1951 | 19.2 | 14.6 | 40.3 | 74.1 | 21.0 | 5.10 | 100.2 |
| 1952 | 19.9 | 13.9 | 41.3 | 75.0 | 20.9 | 7.84 | 103.7 |
| 1953 | 19.5 | 13.3 | 41.1 | 73.9 | 20.3 | 9.98 | 104.4 |

Source: U. S. Department of Agriculture except data for specialties which were calculated by N.C.A. Division of Statistics.

for processing in Illinois was almost 1,400 percent of what it was in 1934. There were vast increases in Minnesota and Pennsylvania.

Most dramatic has been the increase in the Pacific Northwest to which our canner witnesses will refer in full.

The next map shows the same story for snap beans. Here we have a phenomenal increase in the tonnage of snap beans for processing—in many areas.

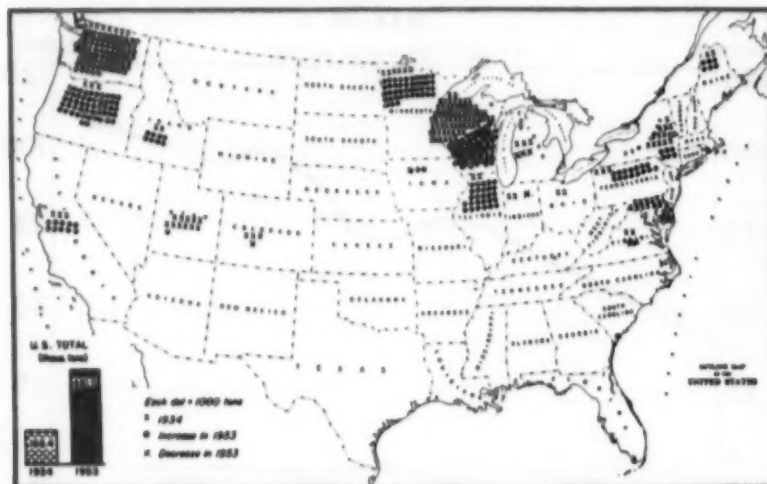
In Florida the production of snap beans for processing in 1953 was 10,000 percent of the 1934 production.

Texas, Oregon, New York, and Pennsylvania likewise show a 10, 12 and 4-fold increase. The Midwest states of Wisconsin and Michigan likewise show great increases.

The next map shows the same story for sweet corn. Here there has been a dramatic increase in the Mid-Atlantic states, in the Midwest, and once again in the Pacific Northwest.

The next map shows the story for canned tomatoes. Here you will observe vast increases in Florida, Pennsylvania, New Jersey and Ohio, in Michigan, Illinois and Utah, and the amazing story in California, which

PEAS: GROWTH OF PRODUCTION FOR PROCESSING 1934 TO 1953



will be detailed by one of our witnesses.

The last map shows the similar increase and distribution by states for asparagus. The particular story on asparagus will be told by another witness.

All of these maps make it abundantly clear that any attempt to control canning crops would have to be on a national basis. Canned products from every producing area meet competitively on grocery store shelves. Moreover, as our witnesses will indicate, there is very great competition among different canned foods. Curtailment of production in any one

state would not be meaningful. It would simply shift production to other areas.

The economic consequences, the dislocations for canners and growers, the loss of investment, and other resulting maladjustments will be detailed by our canner witnesses.

The next two charts (pages 8 and 9) show the dramatic increase in the production of fruits for canning.

In the first we have set forth the comparison of production for canning in equivalent units between 1934 and 1952 of apples, cherries, plums and prunes.

Peas: Production for Processing, 1934-1953

| State | 1934 (thousand tons) | 1953 (thousand tons) | 1953 as Per- cent of 1934 |
|-------------------|-------------------------|-------------------------|------------------------------------|
| Maine..... | 2.3 | 7.6 | 330 |
| New York..... | 13.6 | 20.2 | 149 |
| Pennsylvania..... | 3.0 | 17.7 | 590 |
| Ohio..... | 1.5 | 1.5 | 100 |
| Indiana..... | 2.6 | 1.8 | 69 |
| Illinois..... | 2.1 | 20.0 | 1381 |
| Michigan..... | 6.4 | 3.9 | 61 |
| Wisconsin..... | 71.1 | 131.9 | 186 |
| Minnesota..... | 5.8 | 48.9 | 843 |
| Iowa..... | .2 | 2.5 | 1250 |
| Delaware..... | 3.0 | 2.6 | 87 |
| Maryland..... | 14.9 | 9.7 | 65 |
| Virginia..... | 4.3 | 2.3 | 54 |
| Idaho..... | 2.3 | 9.6 | 417 |
| Colorado..... | 3.9 | 2.6 | 67 |
| Utah..... | 11.0 | 11.6 | 106 |
| Washington..... | 6.7 | 81.6 | 1218 |
| Oregon..... | 2.7 | 55.0 | 2037 |
| California..... | 3.3 | 12.7 | 385 |
| U. S. total* | 165.4 | 461.5 | 279 |

* Includes all other producing states in addition to those in this table.

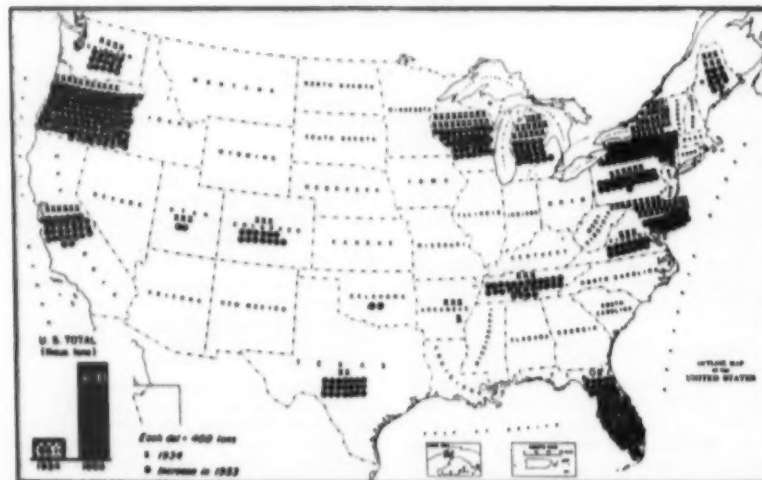
The next chart shows the same story for apricots, peaches, and pears, together with a picture of the total non-citrus fruit production for canning.

The production for canning in 1952 was 215 percent of what it had been in 1934—highlighted by the doubling of the pear tonnage and the almost trebling of the peach tonnage.

Figures on the comparative increase of fruits for freezing are not available for 1934 in all cases. But the trend again has been vast increases.

The next chart shows an even more dramatic story on production of citrus for processing. This is broken down

SNAP BEANS: GROWTH OF PRODUCTION FOR PROCESSING 1934 TO 1953



Snap Beans: Production for Processing, 1934-1953

| State | 1934 (thousand tons) | 1953 (thousand tons) | 1953 as Per- cent of 1934 |
|-------------------|-------------------------|-------------------------|------------------------------------|
| Maine..... | 2.3 | 6.9 | 300 |
| New York..... | 12.2 | 57.1 | 468 |
| Pennsylvania..... | 2.5 | 11.0 | 440 |
| Michigan..... | 5.8 | 14.3 | 247 |
| Wisconsin..... | 7.8 | 23.3 | 299 |
| Delaware..... | 1.2 | 3.0 | 250 |
| Maryland..... | 10.5 | 17.6 | 168 |
| Virginia..... | 1.0 | 6.6 | 660 |
| Georgia..... | .6 | .2 | 33 |
| Florida..... | .3 | 30.0 | 10,000 |
| Tennessee..... | 1.2 | 12.0 | 1,000 |
| Mississippi..... | 1.1 | 1.1 | 100 |
| Arkansas..... | 1.8 | 1.0 | 56 |
| Louisiana..... | .5 | .5 | 100 |
| Oklahoma..... | .05 | .7 | 1,400 |
| Texas..... | .9 | 9.1 | 1,011 |
| Colorado..... | 1.1 | 5.4 | 491 |
| Utah..... | 1.3 | 1.8 | 139 |
| Washington..... | 1.7 | 7.6 | 447 |
| Oregon..... | 4.3 | 55.1 | 1,281 |
| California..... | 2.2 | 14.1 | 641 |
| U. S. Total* | 66.1 | 298.6 | 452 |

* Includes all other producing states in addition to those in tables.

Sweet Corn: Production for Processing,
1934-1953

| State | 1934 (thousand tons) | 1953 (thousand tons) | 1953 as Per- cent of 1934 |
|--------------------------------|-------------------------|-------------------------|------------------------------------|
| Maine..... | 40.3 | 35.9 | 89 |
| New Hampshire..... | 2.0 | 2.4 | 120 |
| Vermont..... | 2.8 | 2.5 | 89 |
| New York..... | 33.6 | 81.5 | 243 |
| Pennsylvania..... | 9.2 | 23.5 | 255 |
| Ohio..... | 39.9 | 35.6 | 89 |
| Indiana..... | 50.0 | 59.6 | 119 |
| Illinois..... | 89.2 | 215.4 | 241 |
| Wisconsin..... | 27.4 | 328.3 | 1198 |
| Minnesota..... | 61.3 | 258.2 | 318 |
| Iowa..... | 51.3 | 73.4 | 141 |
| Delaware..... | 6.0 | 13.2 | 220 |
| Maryland..... | 43.6 | 83.6 | 192 |
| Idaho..... | 3.9 | 57.8 | 1482 |
| Utah..... | | 28.8 | |
| Washington..... | 5 | 93.1 | 18620 |
| Oregon..... | 2.2 | 78.3 | 3559 |
| U. S. Total ^b | 498.0 | 1504.7 | 302 |

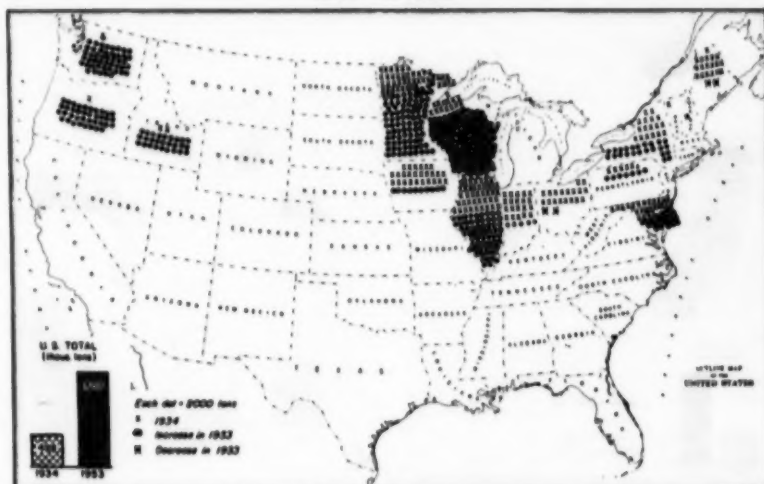
* 1953 production. 1934 production figures not available. ^b Includes all other producing states in addition to those in table.

for oranges, grapefruit, lemons and limes.

You will observe that the tonnage of oranges used for processing has increased almost 7,000 percent above 1934. In grapefruit we have had an increase in tonnage of almost 600 percent and in lemons and limes almost 300 percent.

Let's turn from tonnage to return to the grower. These increases in tonnage have brought large cash returns to the growers in these areas for each of these crops (page 10).

For vegetables this is shown by the next chart. Here we have taken 1934 as an index and show the increase in

SWEET CORN: GROWTH OF PRODUCTION FOR PROCESSING
1934 TO 1953

price per ton on a comparable basis for the four major vegetables for processing.

But this is not the entire story. For in the case of these four major vegetables, the yields per acre grown for processing have increased tremendously with the growing mechanization and improved techniques developed by growers and canners working together. Our witnesses will fill in this story.

Statistically, you will see in the accompanying data sheets that the yield per acre has virtually trebled for tomatoes for processing, almost doubled

for sweet corn and peas, and increased 50 percent for snap beans.

The combination of these two factors of increased yield and higher prices per ton is reflected in the next chart which shows the return per acre for these four vegetables. This chart largely speaks for itself.

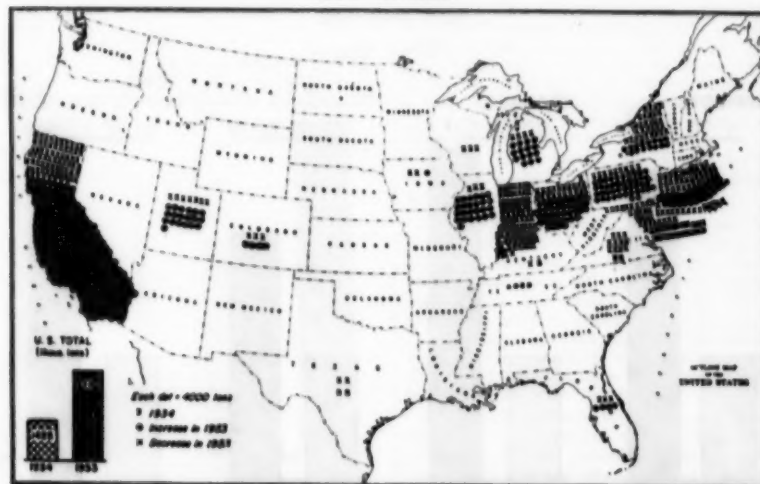
The return per acre for tomatoes is 6½ times what it was in 1934, the return for snap beans and sweet corn 435 percent and 486 percent of what it was in 1934, and the return per acre for peas is more than treble what it was in 1934.

We do not have this same comparison of return per acre for fruits be-

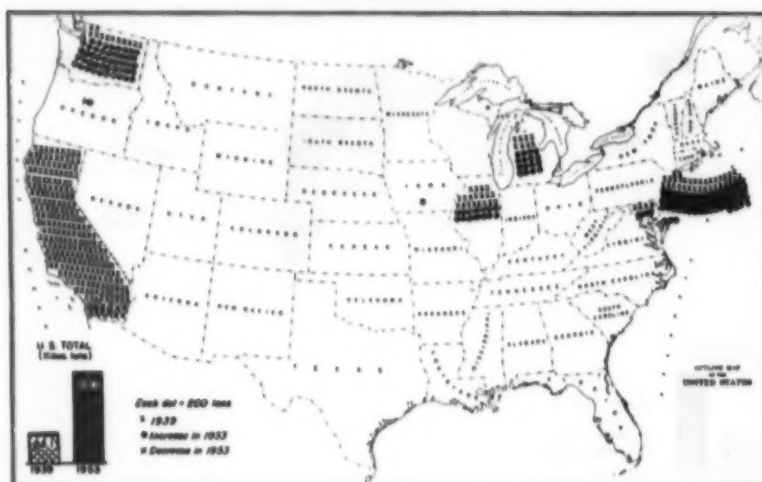
Tomatoes: Production for Processing,
1934-1953

| State | 1934 (thousand tons) | 1953 (thousand tons) | 1953 as Per- cent of 1934 |
|--------------------------------|-------------------------|-------------------------|------------------------------------|
| New York..... | 119.2 | 176.0 | 148 |
| New Jersey..... | 136.0 | 299.2 | 220 |
| Pennsylvania..... | 36.5 | 208.3 | 571 |
| Ohio..... | 82.4 | 234.3 | 284 |
| Indiana..... | 315.4 | 304.2 | 96 |
| Illinois..... | 11.1 | 113.3 | 1,021 |
| Michigan..... | 17.3 | 76.3 | 441 |
| Wisconsin..... | 11.3 | 10.4 | 92 |
| Iowa..... | 7.7 | 10.9 | 142 |
| Missouri..... | 9.6 | 2.6 | 27 |
| Delaware..... | 45.9 | 26.9 | 59 |
| Maryland..... | 202.0 | 126.0 | 62 |
| Virginia..... | 50.4 | 42.9 | 85 |
| Florida..... | 14.0 | 28.4 | 203 |
| Kentucky..... | 9.4 | 5.6 | 60 |
| Tennessee..... | 16.2 | 5.6 | 35 |
| Arkansas..... | 2.6 | 4.0 | 154 |
| Texas..... | 116.0 | 8.0 | 50 |
| Colorado..... | 12.1 | 26.5 | 219 |
| Utah..... | 26.0 | 100.8 | 388 |
| California..... | 282.2 | 1425.6 | 505 |
| U. S. Total ^a | 1425.7 | 3241.8 | 227 |

* 1953 production. 1934 not available. ^b 1935-36 average. ^c Includes all other producing states in addition to those in table.

TOMATOES: GROWTH OF PRODUCTION FOR PROCESSING
1934 TO 1953

ASPARAGUS: GROWTH OF PRODUCTION FOR PROCESSING 1939 TO 1953



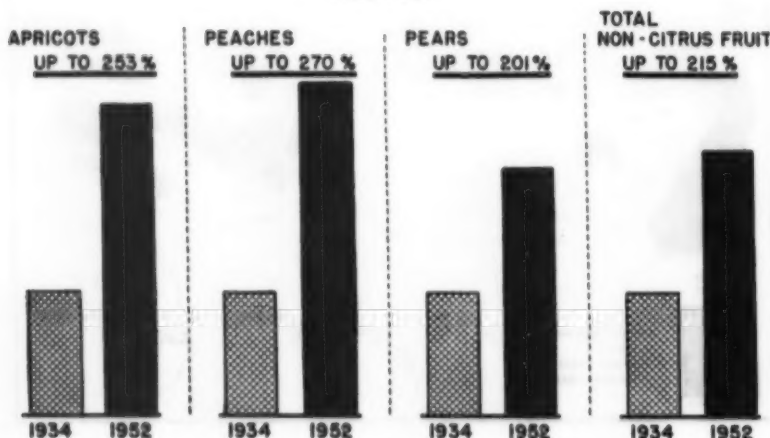
Asparagus: Production for Processing, 1939-1953

| Year | U. S. | New Jersey | Illinois | Michigan | Del. & Md. | Wash. | Calif.* |
|------|-----------------|------------|----------|----------|------------|-------|---------|
| | (thousand tons) | | | | | | |
| 1939 | 64 | 6.6 | 3.7 | 1.6 | .7 | 2.3 | 48.3 |
| 1940 | 72 | 5.7 | 4.2 | 2.3 | 1.3 | 3.7 | 54.0 |
| 1941 | 64 | 9.4 | 5.6 | 3.1 | 1.1 | 4.8 | 38.2 |
| 1942 | 82 | 12.2 | 7.1 | 3.1 | .9 | 4.7 | 51.9 |
| 1943 | 80 | 13.9 | 6.1 | 4.4 | 1.5 | 5.0 | 46.2 |
| 1944 | 92 | 17.4 | 6.6 | 4.2 | 2.1 | 6.6 | 54.0 |
| 1945 | 100 | 20.8 | 8.8 | 3.8 | 1.7 | 7.4 | 56.0 |
| 1946 | 110 | 20.8 | 8.9 | 4.5 | 1.4 | 8.3 | 64.4 |
| 1947 | 91 | 17.6 | 8.1 | 5.1 | .9 | 8.0 | 49.0 |
| 1948 | 86 | 16.9 | 8.3 | 6.0 | 1.0 | 8.8 | 43.3 |
| 1949 | 106 | 19.4 | 8.5 | 6.1 | 1.7 | 10.5 | 57.4 |
| 1950 | 107.2 | 21.3 | 7.2 | 6.3 | 1.9 | 10.7 | 58.0 |
| 1951 | 110.3 | 22.8 | 6.8 | 6.0 | 1.5 | 10.3 | 57.7 |
| 1952 | 96.8 | 19.5 | 5.8 | 7.0 | 1.7 | 11.5 | 48.8 |
| 1953 | 93.8 | 20.7 | 6.5 | 4.8 | 1.9 | 11.6 | 45.9 |

* Estimates available for California only 1918-1938. California production in thousands of tons: 1918-22.6; 1925-43.4; 1930-66.8; 1931-43.8; 1932-35.3; 1933-54.1; 1934-50.0; 1935-56.7; 1936-59.1; 1937-51.2; 1938-44.7.

PRODUCTION OF NON-CITRUS FRUITS FOR CANNING 1934 AND 1952

1934 = 100



Non-citrus Fruits: Production for Canning
1934-1952

| | 1934 | 1952 | 1952 as Percent of 1934 |
|---------------------------|-------------------|------|-------------------------------|
| | (million bushels) | | |
| Apples | 7.5 | 11.4 | 152 |
| Peaches | 8.6 | 23.2 | 270 |
| Pears | 6.8 | 13.7 | 201 |
| | (thousand tons) | | |
| Apricots | 37.7 | 95.3 | 253 |
| Cherries (sweet and sour) | 49.6 | 78.2 | 158 |
| Plums and prunes | 19.1 | 29.4 | 154 |
| Total non-citrus | 677 | 1455 | 215 |

Citrus Fruits: Production for Processing
1934 & 1953

| | 1934 | 1953 | 1953 as Percent of 1934 |
|------------------|-----------------|------|-------------------------------|
| | (thousand tons) | | |
| Oranges | 33 | 2526 | 7655 |
| Grapefruit | 100 | 669 | 669 |
| Lemons and limes | 41 | 187 | 383 |
| Total citrus | 174 | 3382 | 1926 |

cause there is no data that would lend itself to the comparison in view of the varying age of trees, differences in the planting distances, and other factors.

We do know that a comparable increase in the return to the grower has occurred over the past 20 years for most fruits.

As to some of these fruits our witnesses will give you further specific detail.

One factor in this return on fruits can be demonstrated by the next chart. This shows the increased prices per ton for four fruits (page 11).

You will observe that the price per ton of oranges is over 2½ times, and that for pears, apricots and peaches there has been a substantial increase. As we have already seen, the volumes of all these have tremendously increased.

The canning industry has developed these vastly increased markets for these canned fruits and vegetables. The return to the grower has increased.

But none of this would have been possible unless the canning industry had made itself so efficient that these products could in turn be sold to consumers at prices that are attractive.

The Committee will, therefore, be tremendously interested in our final chart (page 11) which shows that these canned fruits and vegetables have been delivered to the consumer at prices far below those of other foods.

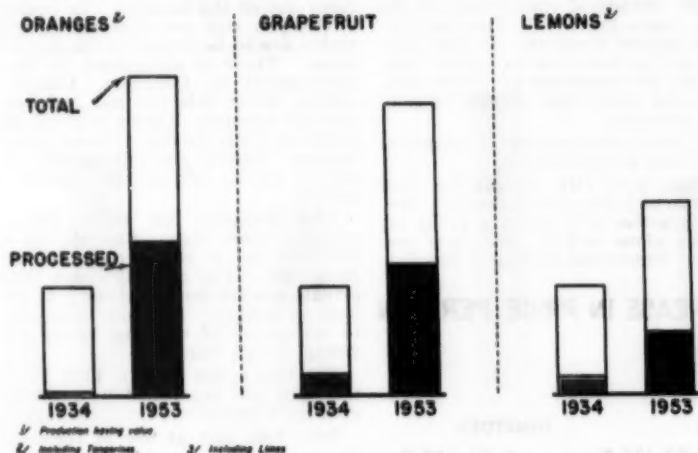
This chart and the accompanying indices taken from the Bureau of Labor Statistics show that the retail prices of canned fruits and vegetables have been kept far below those of all foods and indeed of all commodities.

Not only has this industry increased its markets, opened up vast new canning areas, but it has also over the past 20 years made canned fruits and

CITRUS: TOTAL PRODUCTION AND PROPORTION PROCESSED

1934 AND 1953

1934 = 100



any group of freezers—can now enter into a marketing agreement.

If this proposal were what it is sometimes said to be—a method of self help for the producers agreeing among themselves—there would be no need for amendment. Instead, it is a *mandatory* control scheme that has nothing to do with any canner agreement.

These elaborate control schemes—as plainly indicated by the key subsection (9) on page 10—would be put into effect even when the canners objected.

The comprehensive scope of all of this complicated legislation, which others have asked you to apply to the whole canning industry, has been covered in detail in previous hearings.

This morning we can briefly summarize it under two headings:

First, the extent to which a control order can fully regulate the canner's operations; and

Second, the way an order is put into effect and operated, that is, who can determine to impose it, who has the power to levy private assessments, who gets the authority to operate it, and who alone may terminate it.

Turning first to what can go in an order, this is shown in Sections 8c(6) and 8c(7) of the Act.

In Section 8c(6) (A) you will see that an order can first limit the total amount of any *size, grade or quality* that can be canned. The controlling area can be fixed by the growers and Secretary despite the talk in Section 8c(11) about regional application. Our witnesses will show you why nation-wide control would be required for canning crops.

In Section 8c(6) (B) you will see that an order can allocate what each canner can buy—or any cooperative canner can take—for canning by size, grade or *quality*. The allocation covers what each canner can take from each grower.

Under this the order could specify whether mature or immature crops could be taken, when they could be harvested and received, whether big units or little units could be taken—all of this without regard to whether these allocations would fit into the canner's production program or whether they would yield the kind of product that the canner could successfully sell at reasonable prices.

The allocation could be based on an historical basis or on any other method determined to be representative. Each canner and each of his growers could have their operations frozen to what they had done in the past three years—five years—or ten years. The effect of this in controlling the canner is obvious. The economic consequences will be shown by other witnesses.

Nor is it difficult to see that if you can by order control where each and every ton of raw material may go, you could put into the hands of the control

vegetables relatively the cheapest item in the consumer's market basket.

It has done all of this within a free economy, and without these mandatory marketing controls imposed upon it.

That's the background against which the canner witnesses will talk.

They will talk about marketing orders—as they can be imposed under the complicated 1937 Act which this bill would amend.

Let's look briefly at that Act in the 28-page compilation before you.

Subsection (b) of Title IV, on page 13 of the bill, is only about a page

long. But it brings into play most of this 28-page pamphlet which has all of the provisions relating to the issuance and coverage of these marketing orders without canner agreement.

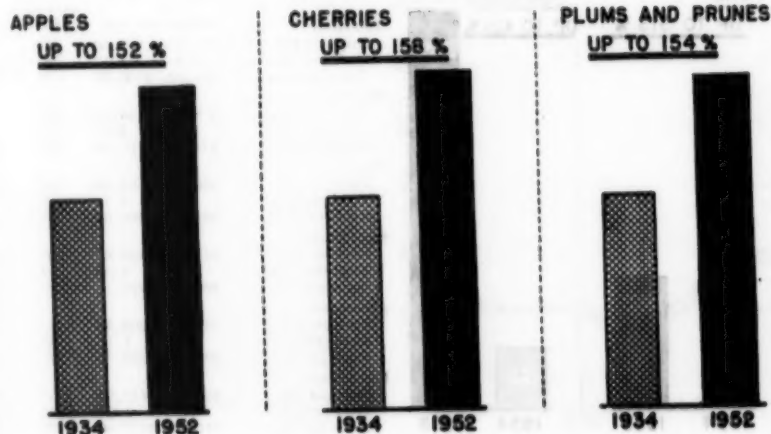
We are not talking about marketing agreements. Even though all of this pamphlet compilation is called the Agricultural Marketing Agreement Act of 1937, only one-third of a page—Section 8(b) on page 4—deals with marketing agreements. All of the rest of the compilation deals with orders.

Let me make clear that under this law as it stands anyone—any group of producers, any group of canners,

PRODUCTION OF NON-CITRUS FRUITS FOR CANNING

1934 AND 1952

1934 = 100



group the power to determine what tonnage should go to fresh market, what tonnage should go for canning, what tonnage for freezing, and perhaps what tonnage for drying. No firmer grip on the operation of the canning industry could be imagined.

In Section 8c(6) (D) and (E), you will see that the order can fix surplus and reserve pools. The order can tell the canner what to hold, what to do with it and when, and how to divide any proceeds.

You will be shocked to see in a moment that the canner can be assessed for the cost of what he is not allowed to process.

Other witnesses will make clear the folly of trying to create a surplus or

reserve pool of a perishable canning crop.

Turning to Section 8c(7) (A) you will see that an order may prohibit anything put into it that is called an "unfair method of competition or an unfair trade practice." That authority is almost limitless. It can control waiting time, how to handle crop receipts, the operation of vining stations, and other vital aspects of canner operation.

We invite your particular attention to the next two provisions.

Section 8c(7) (B) permits the Secretary to pick the control agency. The usual practice is to select a group of growers alone and to give them the power. Sometimes there is a handler

advisory group, but it is simply permitted to report to or through the grower group.

Obviously, all of this control operation costs money. The money is to come out of the canners. In Section 10(b) you will see that the assessments are to be levied on the canners alone. There is no control of these assessments by Congress. Congress neither levies this tax nor appropriates the receipts. They are levied and collected solely by this private control agency. Indeed, you will see that the control agency can sue the canner to collect.

The budgets for these control schemes come high. Budgets up to \$500,000 for a single crop are not imaginary. For canning crops these private assessments could run into millions of dollars. This provision gives to one group of men the power privately to tax others.

But this is not all: In Title IV of this bill, you are asked to authorize even more provisions for these orders.

Let's look just at one of them—at the proposed subparagraph (I) on page 15 of the bill.

Under this an order could contain an elaborate project for marketing research and development of canned food sales. This could run into hundreds of thousands of dollars for any crop. Again, it is to be collected only from the canners. As we shall see, they will have no say as to whether it is wise, or unwise, or should be put into effect.

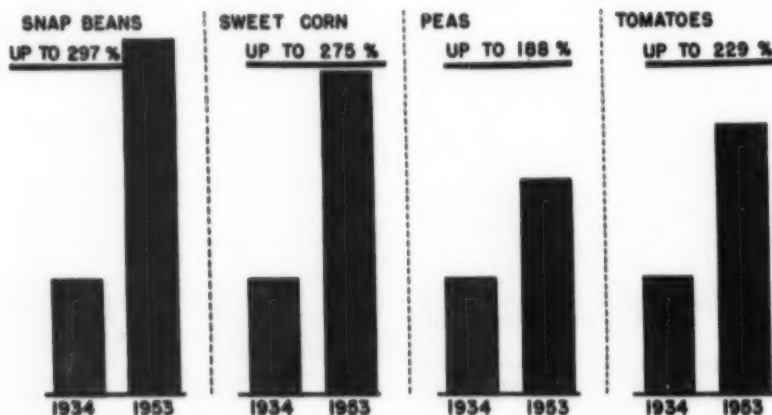
Turning now to the procedure and penalties and how these comprehensive orders come into operation, the key provision is Section 8c(9) of the Act.

Please notice that this is frankly titled, "Orders Without Marketing Agreement." Translated, this means without the consent of any canner.

VEGETABLES FOR PROCESSING: INCREASE IN PRICE PER TON

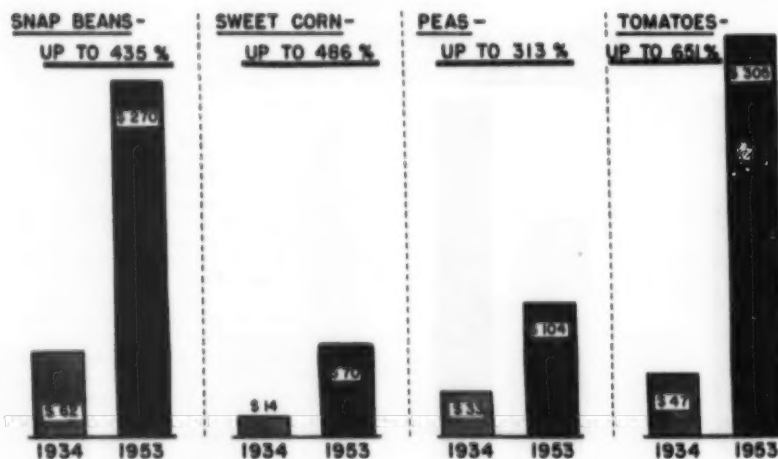
1934 - 1953

1934 = 100



RETURN PER ACRE: VEGETABLES FOR PROCESSING

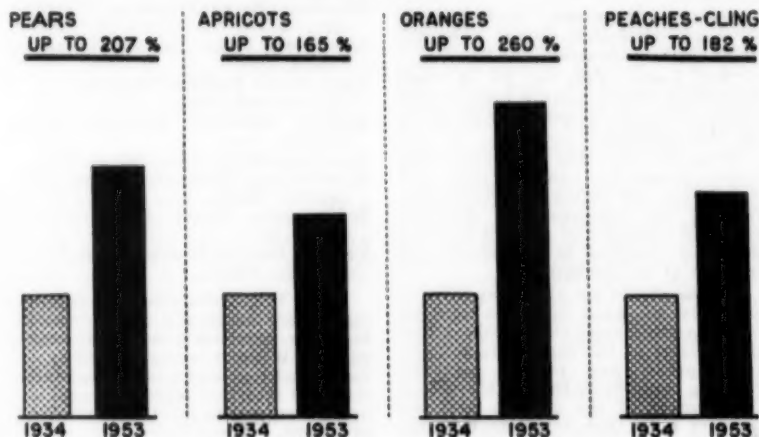
1934 AND 1953



Vegetables for Processing: Price per ton, yield per acre and value per acre, 1934 and 1953

| Crop | 1934 | 1953 | as Percent of 1934 |
|--------------------|---------|----------|--------------------|
| Tomatoes: | | | |
| Price per ton | \$12.03 | \$27.50 | 229 |
| Yield per acre | 3.9 | 11.1 | 285 |
| Value per acre | \$46.92 | \$305.25 | 651 |
| Sweet Corn: | | | |
| Price per ton | \$ 8.46 | \$ 23.30 | 275 |
| Yield per acre | 1.7 | 3.0 | 176 |
| Value per acre | \$14.38 | \$ 69.90 | 486 |
| Peas: | | | |
| Price per ton | \$50.09 | \$ 94.20 | 188 |
| Yield per acre | .66 | 1.1 | 166 |
| Value per acre | \$33.06 | \$103.62 | 313 |
| Snap Beans: | | | |
| Price per ton | \$41.41 | \$122.80 | 297 |
| Yield per acre | 1.5 | 2.2 | 147 |
| Value per acre | \$62.12 | \$270.16 | 435 |
| Asparagus: | | | |
| Price per ton | \$67.00 | \$202.50 | 302 |
| Yield per acre | 1.2 | 1.1 | 83 |
| Value per acre | \$80.40 | \$222.75 | 277 |
| Lima Beans: | | | |
| Price per ton | \$58.57 | \$153.00 | 261 |
| Yield per acre | .7 | 1.0 | 143 |
| Value per acre | \$41.00 | \$153.00 | 373 |

FRUITS FOR PROCESSING: INCREASE IN PRICE PER TON

1934-1953
1934=100

The way it works is this: After the control scheme is worked out and even if the canners object, then the whole thing goes into effect anyway. The only real requirement is that the controls be favored or approved by two-thirds of the growers by volume—or two-thirds by number.

This undemocratic notion of letting one group control the economic vitals of another was originally recognized as extreme. Initially, you will recall, it required the specific approval of the President, but this was eliminated in 1947.

Another point to remember is that when we say "Secretary" we mean any subordinate Department official be-

cause there is another statute that permits the Secretary to delegate all of this power to any subordinate. (Schwellenbach Act of April 4, 1940, Chapter 75, Section 2, 54 Stat. 81, 5 U.S.C. Section 516b).

The net effect is that even though every canner were to object, none of them would have any say as to whether a control order should or should not go into effect. This does violence to every democratic principle—both in terms of imposing controls and levying assessments.

In the previous hearings, I have spelled out that technically not even a grower referendum is required. The Department official might conduct one

Fruits for processing: Price per ton,
1934 and 1953

| Fruit | 1934 | 1953 | 1953 as Per- cent of 1934 |
|--------------------------------------|-------------------|---------|------------------------------------|
| | (dollars per ton) | | |
| Apples..... | \$11.67 | \$61.20 | 524 |
| Apricots..... | 56.80 | 93.80 | 165 |
| Cherries, sour..... | 40.08 | 177.00 | 432 |
| Figs..... | 58.40 | 100.00 | 171 |
| Olives, ripe (for can- ning)..... | 116.00 | 213.00 | 184 |
| Peaches, cling..... | 30.00 | 54.70 | 182 |
| Peaches, freestone..... | 22.00 | 33.10 | 241 |
| Pears..... | 31.00 | 65.30 | 211 |
| Plums..... | 25.00 | 60.70 | 243 |
| Prunes..... | 17.20 | 38.80 | 226 |

under Section 8c(19), but he doesn't have to do so. He can accept the statement of a producer group as binding both the volume and number of every member without further inquiry.

This means that the bulk of the necessary two-thirds grower "favoring" could be found in simple communications from the officers of a few producer groups.

Another point is clear. If anyone proposes a control order covering both what went for canning and what was shipped fresh, there are a number of canning commodities where the fresh handlers, whether independent or co-operative, could by volume and number outvote the canners.

Once the order is in effect, it can continue indefinitely—no matter where the price goes. This is provided in Section 2(2) of the Act.

Continuance in perpetuity of any marketing order is also clearly authorized by this bill in a provision to which I will come in a moment. Only the growers—not the canners who are controlled—can ask that an order be

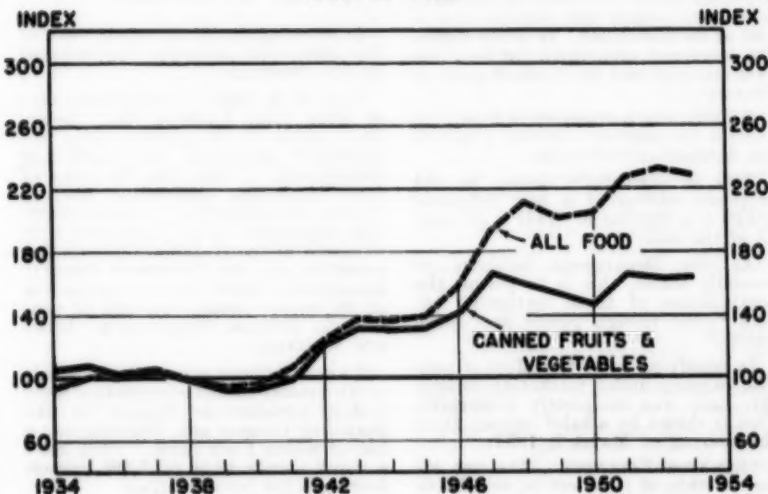
Index of Retail Prices

| Year | All Commodi- ties | All Food | Canned Fruits and Vego- tables |
|-----------|-------------------------|-------------|---|
| | (1935-39 = 100) | | |
| 1934..... | 95.7 | 93.7 | 103.9 |
| 1935..... | 98.1 | 100.4 | 106.2 |
| 1936..... | 99.1 | 101.3 | 100.9 |
| 1937..... | 102.7 | 105.3 | 103.2 |
| 1938..... | 100.8 | 97.8 | 97.4 |
| 1939..... | 99.4 | 95.2 | 92.3 |
| 1940..... | 100.2 | 96.6 | 92.4 |
| 1941..... | 105.2 | 105.5 | 97.9 |
| 1942..... | 116.5 | 123.9 | 121.6 |
| 1943..... | 123.6 | 138.0 | 130.6 |
| 1944..... | 125.5 | 136.1 | 129.5 |
| 1945..... | 128.4 | 139.1 | 130.2 |
| 1946..... | 139.3 | 159.6 | 140.8 |
| 1947..... | 139.2 | 193.8 | 166.2 |
| 1948..... | 171.2 | 210.2 | 158.0 |
| 1949..... | 169.1 | 201.9 | 152.9 |
| 1950..... | 171.9 | 204.4 | 146.0 |
| 1951..... | 185.6 | 227.4 | 165.9 |
| 1952..... | 189.8 | 231.5 | 163.8 |
| 1953..... | 191.3 | 227.8 | 164.0* |

* Estimated by Division of Statistics, National Canners Association.

RETAIL PRICE INDEXES

1935-39 = 100



terminated. This is shown by Section 8c(16) of the Act.

Lastly, let's look at the penalties. If a canner violates, he can be made to forfeit three times the value of the commodity under Section 8a(5) of the Act.

In addition, he can be made to pay a penalty of \$500 per day as seen in Section 8c(14). There are other penalties in Section 10(h). To top it off, all of these penalties are cumulative.

I can't take the time to go through all of these complicated provisions. But what emerges ought to be clear:

First, this entire statutory edifice is designed to cover both commodities and products. You will see this phrase repeated in every subdivision of Sections 8c(6) and (7).

How the attempted separation of the raw material, as a commodity, and the finished product will work—how it will follow through the intricate provisions of this Act—raises a host of questions.

Basically, at what point does control cease because the vegetable or fruit is no longer a commodity but the finished product?

I don't know—and at times I have thought that I was familiar with this area if only because I wrote the first control scheme in 1934, have helped draft many proposals, and have studied in detail how these controls could operate.

Second, the seductive simplicity of Title IV is wholly delusive. You are being asked to enact almost all of these 28 pages of control authority for the entire canning industry. You are asked to put into effect the widest kind of authority, on a basis that is wholly undemocratic, on an industry that has done a splendid job in developing markets, and without any real need having been demonstrated.

Third, it should be obvious that you are controlling the canning industry when you permit this degree of control of its operations. In other words, the supposed separation between the raw material and the finished goods is illusory.

Finally, the real objective here is to control the markets and the prices of the finished canned foods.

This is beautifully shown by the proposed edition of a new Subparagraph 4 to Section 6. This is on page 13 of the bill.

As the Department analysis so candidly states, this is to permit the continuation of these marketing orders "even though prices are above parity."

In testifying as to the effect of putting canners under marketing orders, Mr. Loos was completely forthright. This is shown by a brief extract from the hearing on March 5, 1954:

"SENATOR ELLENDER. The net effect of this, if it is left in, will be to

cause the fruit and other things to be canned to be sold high?

"MR. LOOS. Yes, sir, that is the objective, to get a higher price for the producer.

"SENATOR ELLENDER. And of course it would ultimately mean a higher price to the consumer?

"MR. LOOS. Yes, sir, all of these marketing orders mean a higher price to the consumer to get a higher price for the producer."

Thus the objective is to raise consumer prices for canned fruits and vegetables. Of course, this flies in the face of the Congressional directive stated in Section 2 of the Act that the policy of Congress is "To protect the interest of the consumer."

On the record we urge that there is certainly no need for this control. Nothing could more thoroughly defeat the interest of the consumers than to raise prices and curtail markets. Nothing could more thoroughly defeat the interest of the canners and the growers alike than to attempt to put these detailed controls on this industry.

All of this is apart from our other objections that the whole operation is undemocratic and regimentation of the worst sort.

Just what will be the economic consequences to canners, to growers, and to the consumer will now be demonstrated in practical, concrete terms, by our canner witnesses.

Since Title IV reads on all of the provisions of the Act, perhaps the Committee would care to include all of it in these hearings as a point of reference.

May we now present our canner witnesses.

STATEMENT

By O. E. Snider

[Following is the complete text of the statement prepared for delivery by Mr. Snider.]

I am O. E. Snider, general manager of Blue Lake Packers, Inc., Salem, Ore., which is a grower-owned cooperative processing and marketing association. I have had 28 years of farm marketing experience, most of it with the marketing of canned fruits and vegetables. I am testifying here in behalf of the National Canners Association, and the Northwest Canners Association, which has a membership of 75 canner firms composed of canners in Oregon, Washington, Idaho and Montana.

I am testifying especially in behalf of 11 grower-owned cooperative marketing associations located in the States of Oregon and Washington, a list of which I am filing. They have a total membership of 5,196, representing 5,196 farm families.

Apple Growers Association, Hood River, Ore.
Blue Lake Packers, Inc., Salem, Ore.
Eugene Fruit Growers Association, Eugene, Ore.
Gresham Berry Growers, Gresham, Ore.
Producer's Coop. Packing Company, Salem, Ore.
Springbrook Packing Company, Springbrook, Ore.
Stayton Canning Company Coop., Stayton, Ore.
United Growers, Inc., Salem, Ore.
Washington Canners Coop., Vancouver, Wash.
Williamette Cherry Growers, Inc., Salem, Ore.
Yakima County Horticultural Union, Yakima, Wash.

These 11 cooperatives have been doing a very successful job of marketing their members' products for many years. Without exception, they are very much opposed to this legislation that will interfere with their past and present very successful merchandising programs. These firms, without exception, are very much opposed to the proposed legislation as exemplified in Title IV.

They all feel that if this plan or scheme or whatever you wish to call it had been applied over the years during which they have made a very healthy growth that they could not have made the progress and have given their farmer members the valuable service they have received. The growth in bean processing in the Pacific Northwest was shown on a map presented by Mr. Austern. As a case in point, our own Association in the year 1935 was packing about 65,000 cases of Blue Lake beans. Our 1953 pack of this item was 685,000 cases. The industry at that time was packing about 569,000 cases, about half of which were Kentucky Wonder beans and the other half Blue Lake beans. The pack of canned green beans for the Northwest and California for 1953, almost all Blue Lake beans, was in round figures about 6,000,000 cases. If the scheme of control and restriction as contemplated in the proposed legislation had been made effective in 1934 or 1935, this wonderful progress could not have been made. We would have been virtually frozen to a very small pack.

This is also true of canned pea production in the Northwest which has from a standing start in about 1935 grown to a pack of 6,000,000 to 8,000,000 cases per annum.

We have observed the operation of marketing orders as applied to fruits and vegetables sold on the fresh market. We can see nothing whatever in them that would be of any value to growers if applied to fruits and vegetables for canning. A control order is a fly trap—one made very easy to enter but the exit is extremely difficult.

Our experience as a cooperative processing and marketing association

with marketing agreements and orders as applied to raw products for canning is that first, due to unrealistic pricing of the raw product, growers involved in the agreement are thrown for a net loss. Because the pricing was unrealistic to begin with, a later lower price creates a declining market causing the price to finally settle lower than could have been realized if they had not imposed their ideas of price on the market to begin with.

The restriction of production contemplated under a marketing order due to smaller volume will inevitably increase cost per unit on the farm and in the plants thus causing more harm than good to marketing. As a matter of fact it would undoubtedly close many marketing outlets.

The foregoing effects would undoubtedly mean the elimination of many small canners and may very well create a monopoly of the business by major canners.

Due to unrealistic pricing, which often ignores actual conditions and realities about the market for any particular product, many of the medium and larger sized canners would doubtless go into farming on their own for the purpose of a source of supply of raw product of fruits and vegetables for canning. This would eliminate many small farmers who depend on canning and freezing crops for their livelihood.

According to USDA statistics, the bulk of primary fruits and vegetables for canning and freezing have remained nearer parity than almost any other crop. In other words, if left alone the industry can very well take care of itself with greater advantage to farmers than the regimentation contemplated in this Title IV.

The bill imposes a tax on handlers, which means cooperative processors as well as independently owned companies, without their consent and we believe to the damage of the entire industry, which first and foremost would be farmers followed by processors, distributors, retailers, and particularly, the final consumer.

With the exception of a few isolated instances, canners all over the country contract for their raw products from growers at a specified price prior to harvest, and in the case of vegetables, several months in advance of planting time. The canner-grower relationship and interest are very closely interwoven. Generally speaking you will find growers dealing with the same canners over a long period of years. In many instances canners will advance the cost of fertilizer, seed and other materials. In many instances they either secure a loan for growers through banks or advance them cash outright for production purposes. In addition to this, the canners by the very nature of the business are compelled to invest many times the cost of raw products for

processing operations, supplies such as cans, cases, etc., to say nothing of the tremendous investment in plant and equipment.

There are no gluts in raw products contracted to canners. If the yield is high, the canner will generally take the entire tonnage. This may place him in a surplus position. The crop will have been saved, however, and will be stored in canners' warehouses for later sale. The canner has the risk of marketing the finished product.

In the case of vegetables which are planted annually, the grower has a free choice. He will be approached by the canner months before planting time with a contract and a price. If the grower is not happy about the conditions, he can and does refuse to grow. If the price does not satisfy the grower, he may then decide to leave the product in question out of his production program. This has had a tendency to stabilize canners' prices to growers, keeping them on a level where both canners and growers can expect a reasonable profit.

The interests of canners and growers are so closely interwoven that they are practically in the same bed. As we have said before, the prices received by growers for raw products for canning have been at a higher level than almost all other crops. When we think about splitting a successfully operating industry such as this, in other words, splitting the grower and canner interest, we might very well be like the two old miners who, in the latter part of a long Alaskan winter, went cabin crazy and decided to divide their effects between them. One took the cook stove and the other the cooking utensils, and among their facilities they jointly owned a small boat. So nothing would do but that they cut the boat in two, which they did.

We as grower-owned processing associations feel that one of the major answers to the marketing of fruits and vegetables for canning is the joint promotional efforts carried on among cooperatives and independently owned plants, in doing a better merchandising job, in producing higher quality at lower cost. Joint promotional efforts in which cooperatives and independent packers participate are applied to Blue Lake beans, sweet cherries, red sour cherries, and recently a new promotional merchandising program is being developed for purple plums.

These activities are all voluntary on the part of the industry and are financed by the industry, and lastly, without any compulsion from government or other interests.

The National Canners Association is also carrying on a general promotional effort toward broader distribution of canned fruits and vegetables. Since we are already carrying a substantial financial burden on these promotions, we certainly would object

strenuously to having additional costs imposed upon us.

While we as an industry have made amazing progress toward the reduction of cost and providing the consumer with high quality products at low cost, greater strides can be made in this direction both on the farms and in plants, provided, of course, that we can continue to operate freely and to successfully market our products as we have in the past.

This cannot be done under a restrictive order. I know full well that the members of our organization as well as the other cooperative marketing associations for whom I speak would be angry mad if we should have an order from the Secretary of Agriculture in Washington compelling us to allocate crops or to give quotas to each grower member requiring him to reduce his production, notwithstanding the fact that we had been successfully marketing all he could produce.

Especially would this be true when he learned that he had to pay a substantial assessment per ton or pound for the privilege of reducing his production and increasing his cost. He would still be more angry when he learned that this control scheme had been imposed upon his association by outside interests and without his or his association's consent.

He would also later discover that he had been nicked again when he had received his final returns for the crop that due to smaller volume, unit costs had also increased in the plant which resulted in a decrease in his returns. When this information became available to our members I think I should make it a point to be gone fishing on that day. In short the grower would find that he had lost control of the management of his own farm and of the plant which belonged to him along with several hundred other members. He would no longer be able to maintain his system of rotation of crops and to plan ahead and to grow more or less of a canning crop which would seem best to fit into a program. He would be afraid to release any of his canning crops to fit his rotation program for fear that he might not be able to reestablish the quota which had formerly belonged to him.

I am quite sure that farmers growing for independent canners would have the same feeling, that the interference was unwarranted, uncalled for, undemocratic, unnecessary and of great damage to everyone concerned from the grower through to the consumer.

Farm marketing is a major undertaking. It requires special knowledge of merchandising, evaluation of various markets, an insight into consumer reaction to certain price levels. Should a marketing order be issued on a particular commodity and the results be a substantial rise in price, the commodity involved would immediately feel the keen competition of

other similar commodities. Once the consumer is driven away from a product because of price level it is extremely difficult to get them again interested in the product even at a much lower price. You would think that a drop in price would bring them back almost immediately to consuming the product. As much as two to three years are required to regain the momentum formerly enjoyed by a product which had been sensibly priced before having been priced out of the market. It goes without saying that a marketing order would be ineffective unless imposed nationwide on any commodity. To impose controls in one region would automatically shift the business to uncontrolled regions.

In effect, the marketing of our members' products would be taken out of our hands and placed under the control of outside interests who most likely would have little or no knowledge of marketing or a good merchandising program. We as grower-owned marketing associations feel that our marketing judgment and our knowledge of merchandising certainly should be far superior to that of an inexperienced group of growers or the Secretary of Agriculture or any of his subordinates. We believe the same thing is true of the canning industry generally.

Cooperatives and independent canners borrow huge sums of money with which to carry on their operations of processing and marketing. Banks look largely to the judgment of management with which they are familiar for sound business practices and a generally successful operation as a basis for their extension of credit. If banks should suddenly find that management of the canning industry, and again this includes cooperative processing and marketing associations, that a sizable part of the function of management had been given over to inexperienced groups or to some government agency, it is very likely that many canners would find themselves without funds with which to operate.

The marketing of fruits and vegetables for the fresh market is as different as day is from night from that of the marketing of canned fruits and vegetables. Raw products for canning and freezing are not really sold until the consumer has taken them off the grocer's shelf and has consumed them, and that the quality and price is such that the consumer will come back for more.

It apparently is assumed that under this legislation the marketing of the raw product for canning and freezing ends at the grower's truck's tailgate. This is simply not true.

The canning industry is an extremely valuable market outlet for growers of fruits and vegetables. It is a marketing system complete in itself from the farm to the consumer. The effect of the proposed legislation

will be to throw two of the main segments of the system, namely growers and canners of fruits and vegetables, at one another's throats. It has in it the seeds of disruption, antagonism, great loss to canners and growers alike.

If this legislation is enacted, the date of its enactment will be later looked upon as the blackest day in the history of the canning industry. The growers whom it is supposed to benefit will doubtless be the most angry, disheartened, and disillusioned. By that time canners and growers will have endured and have virtually lived under a regimentation and methods used by a police state far too long. Years would be required to clean up the wreckage and to get the ship back on its course.

All we are asking is that we be left alone to continue to do a good successful marketing job. We sincerely hope that you will not entertain the idea of inflicting the straitjacket and the regimentation upon us contemplated in this legislation. In no sense of the word are these marketing orders adaptable to raw products for canning and freezing. We are sure that you will take a most careful and long look at the dangers to orderly and successful marketing that are involved. We most respectfully request that you report the bill unfavorably.

STATEMENT

By John E. Dodds

[Following is the complete text of the statement prepared for delivery by Mr. Dodds.]

My name is John E. Dodds, vice president of Schuckl & Co., Inc., Sunnyvale, Calif., and president of the Canners League of California, whose members produce over 80 percent of the state's canned fruit and vegetable pack.

During the past 20 years the California production of canned fruits and vegetables has increased from about 30 million cases in 1934 to 86 million cases in 1953. In 1953 California production represented 25 percent of the national pack of these items, excluding canned soups and specialties. This expanded output has resulted in ever-increasing acreage being utilized for the production of canning fruits and vegetables and has been accompanied by favorable prices and profitable returns to growers.

In voicing its opposition to the inclusion of canning crops under federal legislation providing for marketing orders, the California industry speaks with some 27 years of experience with various control schemes. Nearly every year since 1926 some form of crop regulation or control has been in effect for cling peaches which are grown and canned almost exclusively in California.

Throughout this 27-year period, cling peach canners and growers have tried voluntary programs, programs under the AAA, and marketing orders under the California Marketing Act. These programs have included almost every imaginable device for surplus control, including quotas to canners, fixed prices for both the fresh and canned production, stripping and pulling trees to eliminate surplus, elimination of small size fruit, and various other devices. Many of these marketing orders also included grade control, and advertising and sales promotion programs jointly financed and controlled by canners and growers.

Although California canners have participated in these programs, many do not recognize them as having been successful and the fact that again in 1954 the cling peach producers face a large surplus strongly indicates that these marketing orders have continued to aggravate the condition they were designed to relieve. Elimination of fruit in surplus years has artificially changed a buyers' to a sellers' market, resulting in prices to growers that have encouraged new plantings and made the problem of over-production more acute from year to year.

It is interesting to note that while the 1953 California pack of cling peaches was approximately double the pack of 1934, the pack of Elberta peaches which have been uncontrolled, increased from 406,000 cases in 1934 to 3,818,000 last year.

As another example of a shift in production caused by a localized marketing order, we cite the California experience with canned asparagus. A detailed recitation of this experience was presented by Mr. L. E. Neel, general manager of the Turlock Cooperative Growers, Inc., Modesto, California, before the House Committee on Agriculture on February 27, 1947. Production controls in California from 1934 to 1940 resulted in prices to growers sufficiently high to stimulate production in other areas of the United States. In 1940, when production control had effectively ended, California's share of the U. S. production had shrunk from 89 percent in 1934 to 51 percent in 1941. Last year the state's production was also 51 percent of the United States total.

In recent years tomatoes have been one of California's most important canning crops and one which has never been controlled by a marketing order. Tomatoes are an annual crop contracted in advance by the canners, and growers have commitments for their production ahead of the growing season. In 1934 the California production of this commodity was 282,200 tons, or 19 percent of the national production of 1,425,700 tons.

The California canning industry has made tremendous efforts to increase the utilization of California tomatoes in the expansion of production of new products such as tomato sauce, tomato

paste and tomato puree, and further experimentation on increased utilization is continuing. Vast amounts of money have been spent for new processing equipment and for improving physical properties of canning plants. Extensive effort has been expended in developing more efficient methods of handling tomatoes from the field through the processing plant to reduce cost and assure the highest return possible to the growers. Large sums have also been spent in advertising and promotion to expand markets and to educate consumers to new uses for tomato products.

These efforts have been highly successful in the absence of controls as demonstrated by the fact that in 1953 California production was 1,425,600 tons or almost exactly the same as the total U. S. production 20 years ago. The state in 1953 accounted for 44 percent of the national production. An increase of this magnitude would have been out of the question under controls designed to curtail the crop or to fix canner quotas.

Experience with crop curtailment schemes leads to the conclusion that while they may give temporary relief, in the long run they stimulate the production of competing products at the expense of the controlled commodity, and perpetuate problems of surplus production.

There has been a driving force in the canning industry to expand markets for all canned fruits and vegetables. Vast sums have been spent by private firms and through the National Canners Association for research and market development. The industry is spending millions of dollars for advertising and promotional work to convince the distributor of the desirability of handling canned foods and to encourage the consumer to use them as a modern way of serving her family. Even the suppliers of materials, such as containers, are actively contributing to the educational work in this field.

The rigid control of any canning fruit or vegetable can impose serious hardship on the canning industry. It is imperative from the standpoint of economy of operation for a cannery to operate at or near capacity. If limiting quotas or allocations to canneries were required under an order, the increased cost of processing could offset the advantages of the curtailment.

Once these seasonal fruits and vegetables are harvested and canned, the processor assumes the full risk and responsibility for marketing them, and adequate crops produced without government-sponsored control offer a powerful incentive for seeking and developing new and expanded outlets.

Furthermore control programs cost money. The budget for administering the federal marketing order regulating California raisins was \$66,000 in the 1952-53 season. This was increased to \$70,000 for the 1953-54

year. Cannery and growers in California are liable for a maximum charge of \$1.20 per ton for administration of the state cling peach order and obviously this expense must be included in the cost of canned peaches.

No real justification exists in California for a broad regimentation of the canning industry by the federal government. It is true that the competitive position of individual canners changes from year to year depending upon promotional effort, efficiency and quality of product. But if canners were to be placed under rigid controls of the quantity and quality of raw material they could use, little incentive would remain to expend energy and money for promotion and consumer education toward expanded markets.

Such controls, freezing competition, would protect the inefficient, discourage promotional effort and expansion of packs and markets, and hamper the development of new products to the disadvantage of the grower, the canner, and the consumer, alike.

Consumption of canned fruits and vegetables, and the farm acreage required to produce the crops, have every opportunity to continue to increase so long as the canning industry is permitted to exercise, unhampered, its imagination and energy.

STATEMENT

By Howard T. Cumming

[Following is the complete text of the statement prepared for delivery by Mr. Cumming.]

My name is Howard T. Cumming. I am president of Curtice Brothers Company, a medium-sized canner and freezer of vegetables from Rochester, N. Y. I have been in this business all my life, and have appeared before Congressional committees on this same subject in the past, the last time being in 1947.

The intent of Title IV has been clearly described by Mr. Austern. I shall, therefore, limit my reference to it to several specific points which I hope to make.

Let there be no misunderstanding as to the impact of this proposed legislation on processed, and particularly canned fruits and vegetables. Whereas the bill excepts "canned or frozen fruits and vegetables" it specifically applies to fruits and vegetables for canning. For all practical purposes it might just as well cover processed fruits and vegetables. If the principal raw material of a canner is to be subject to control by an agency other than himself his business is under the control of that agency. While many things go into the manufacture of a can of peaches or peas there are four essentials—an equipped canning plant, the peas or peaches, the cans and labor. Control any one and you control the business. It calls for no proof

to understand that the supply of cans, the quality of cans and the price of cans may determine the success or failure of any canner. Likewise the supply of fruits and vegetables, the quality of fruits and vegetables and the price of fruits and vegetables can influence and does influence the scope of the canning industry. Let no one be deceived as to the impact of this bill on the supply of this essential food product by the text when it excludes canned and frozen fruits and vegetables. In covering as it does fruits and vegetables for canning it positively controls the very industry itself.

The proponents of this bill understand this fact and therefore must believe that the agencies proposed to be set up by it are qualified to direct the canning industry better than the canners are themselves. Let's take a look at some features of the canning industry and try to appraise the relative ability of a canner and grower committee to direct a successful canning business.

A canner may—and this is true of the great majority of canners—operate in a restricted area, perhaps one state. His output, however, is in competition with the output of the entire country. The cost of his canned tomatoes must be such that he can sell and compete with canned tomatoes from all over the United States. The growers in his area may believe—and very sincerely so—that their tomatoes should bring \$25.00 per ton. The canner knows that if he pays that price he can't possibly sell the tomatoes and stay in business. There has to be a negotiated price and one that permits both to prosper. If no such price is determined then one or the other goes out of the tomato business. This is as it should be. But if either the canner or grower solely determines the price factors—and under this bill the supply, the size, and the grade would be controlled—there is the risk, in fact the certainty of failure. How many tomatoes, peas and pears shall be grown for canning, the size, the grade, and amount to be canned must be determined by the combined judgment of grower, processor, distributor and consumer. The minute we set the stage arbitrarily to foster the self-interest of one of these groups we destroy the operation. As a matter of fact it is in the canner's interest to pay the highest grower prices he can pay and remain in business. A prosperous grower is one of a canner's greatest assets.

It is sometimes maintained that marketing agreements and orders are employed for the marketing of some fresh fruits and vegetables and therefore they are equally adaptable to canned fruits and vegetables. It is true the canning industry is one of the major outlets for the growers of fruits and vegetables. It is one of the major pipe lines between grower

and consumer. In many important respects it differs from the business of the produce dealers who are the growers' other principal pipeline. We must plan in advance. We have a very high fixed investment in plant and highly specialized equipment. It runs from \$0.75 to \$1.00 per case, while the average selling price of a case of vegetables would be in the vicinity of only three dollars. We use very costly containers in relation to the paper, cloth and wood that produce dealers use. We invest heavily in the growers' operations when we supply seed, fertilizer, and other supplies. We often do much of the growers' trucking and often supply his harvesting labor. This canning pipeline is a very costly and complicated one compared to that of the produce dealer. It calls for a tremendous and hazardous investment and the greatest skill and experience to run it successfully. We maintain that our business, through the control of our principal raw material, should not be subjected to the control of others. This bill will subject us to new hazards which we may not weather.

An important difference between the marketing of fresh and processed fruits and vegetables may be seen in the relative importance of brand. While it is true some few fruits and vegetables are branded there are not many Blue Gooses and Sunkists. On the other hand, anyone can start with Del Monte, Libby, Green Giant and compile a long list of well-known brand names used on canned food. These brands have been established at great cost. They represent a very big investment and one which requires constant protection. I can think of no way to more effectively destroy the valuable goodwill of established brands than to jeopardize the supply of the item advertised. To deprive a successful advertiser of absolute control over the volume he may produce, the quality he may make and the price he may charge is to threaten his position in the market. This bill which provides a system whereby the volume of canned foods shall be manipulated by altering grower prices rather than by measuring consumer wants can backfire on both growers and canners disastrously.

This bill aims to set up a control-of-supply mechanism that will increase growers' prices. It obviously in that case will increase the price the consumer pays for a can of corn or peaches. This is frankly admitted. Price increases will turn away some customers. No one can positively prove at just what point consumers will refuse to buy canned foods. But it is a known fact that as the price goes up the volume declines, and that the prices of canned foods are highly sensitive. It is obvious to any observer in a supermarket. Grocers not only split nickels, they split pennies. Two cans for 19 cents and two for 39 cents is common pricing practice.

The lower the price can be kept and everyone concerned with the growing, canning and distribution make a living, the more will be sold. All of us including the grower want our business to grow and the lowest possible price consistent with economic success will insure that growth. Free competition at all levels insures the prices of canned foods being sound. The fact that this industry has grown tremendously would seem to suggest that those engaged in it have liked it. No one has been forced to grow fruit and vegetables for canning. So regardless of the claims of some groups of growers there have been in the past and there are today enough others to support a very healthy canning and freezing industry. Marketing orders are not required to salvage growers unless perchance it be a limited number of submarginal ones.

STATEMENT

By Louis Ratzesberger, Jr.

[Following is the complete text of the statement prepared for delivery by Mr. Ratzesberger.]

My name is Louis Ratzesberger, Jr. I am president of The Illinois Canning Co. of Hoopeston, Ill., a past president of the Illinois Cannery Association, and immediate past President of the National Cannery Association.

Canners have on 10 occasions testified in opposition to legislative proposals to permit federal marketing orders on canning crops. In company with other canners I again ask that canning crops not be included under this complicated control order.

My company has been in operation in canning sweet corn since 1878. We have increased our production and distribution of canned corn almost exclusively under our own brands. In 1937 we began canning tomatoes and in 1938 added asparagus.

We maintain that by contracting with the farmer for the produce from a definite number of acres at an agreed-upon price (in advance of the planting of the crop) and then by marketing the canned product under our brand names we are already performing the function which federal legislation on marketing orders is aimed at accomplishing.

The marketing responsibilities of the canner are entirely different from those of the fresh fruit and vegetable handler. The canned product is largely a manufactured product with all the emphasis on brand names encountered in the distribution and promotion of manufactured products. Competitive positions of individual canners vary from year to year, as the consumer responds to the individual canner's brand promotion, efficiency, and quality of product. If a canner's output were to be limited by

controls on the quantity and quality of his raw material, there would be no incentive to expand production, promote his product or to compete for a larger share of the consumer market. This freezing of the current competitive picture would protect the inefficient and hamper the efficient.

Because of the freedom to expand operations under our own brand, my company has labored diligently to improve the quality of our products and add new items such as tomatoes and asparagus.

This has involved the expenditure of a considerable amount of time, effort, and money in improving the quality of raw product, increasing the efficiency of our factory facilities, and advertising and promoting the distribution of our branded products.

We consider this expenditure a good investment because the future of our brands is largely in our own hands.

If the controls contemplated in this legislation were imposed upon us, we would have no reason to expect an increase in our business, but rather a decline as consumers shift to uncontrolled items. Canned items are in intense competition with each other for the consumer's dollar. If the price of one canned commodity is artificially increased in price, consumers will shift to competitive items. For example, the increase in the price for canned citrus juices which would result from controls on citrus juice production would bring about consumer shifts to pineapple juice, tomato juice, or other competitive items. This would only aggravate the existing problem.

In fact if we had been operating under marketing orders since they were first proposed in 1934 it is unlikely that we would now be canning tomatoes and asparagus and that our volume of canned corn would not be at its present volume. The production of these items that existed in 1934 would no doubt have been allocated to canners on some historical basis and our company would have shared proportionately, which in the case of tomatoes and asparagus would have been zero.

In my testimony in 1947 I referred to the asparagus industry in Illinois. In 1935 Illinois packed 96,000 cases; in 1945 396,000. The 1935 pack was 3.8 percent of the total U. S. pack; the 1945 pack was 8.9 percent of the total. For 1953 the Illinois pack totaled 564,000 cases or 12½ percent of the U. S. total.

In 1934 the U. S. total pack of asparagus was 2,149,000 cases whereas the total has been at least double that figure since 1946.

Most of that increase has developed in sections such as Illinois which prior to 1934 had contributed little or none to the national total. This shift in producing areas resulted at least in part from the use of marketing orders

in California while the balance of the country was free to expand.

Our opposition to marketing controls is not prompted by a lack of sympathy for the grower's position. Other canner witnesses will show that prices paid for canning crops compare very favorably with what the growers receive for other crops. In fact we canners must be competitive in order to contract the acreage. In the case of such crops as sweet corn, peas, and tomatoes the farmer can easily pass up these crops and plant something else. In fact he can do this on rather short notice and in fact does so without any great inconvenience to himself.

In the case of my own company our field department furnishes our approximately 400 growers with many services beyond bare price terms of the contract.

We furnish our sweet corn seed at less than cost, make soil tests without charge, arrange for proper fertilizer and for the most part finance the cost of fertilizer, seed and harvesting costs and pay for the crop promptly upon delivery. We also provide insect control facilities without cost to the grower. In recent years canners have promoted the development of a mechanical corn picker which has materially reduced harvesting costs.

In consideration of the canner contract offering a price which the grower can accept or reject before the crop is planted; the many services furnished by the canner; early payment for the crop; and an assured home for the crop, I can see no occasion for superimposed controls on the canners' operations such as proposed in this legislation. The growers' interests and needs are well considered in the canners' program and no need for this type of control for the canning industry has been demonstrated.

Of my own knowledge, the views of other Illinois canners coincide with my own on this subject.

We are emphatically opposed to this type of legislation and respectfully urge you to reject it as the Congress has on 10 previous occasions.

STATEMENT

By Gilbert J. Hipke

[Following is the complete text of the statement prepared for delivery by Mr. Hipke.]

My name is Gilbert J. Hipke, secretary of A. T. Hipke & Sons, Inc., New Holstein, Wis., a canning and farming corporation founded in 1898 by my father, who still serves as president at 81 years of age, and is active in the organization at this time. I have had the honor to serve as president of the Wisconsin Canners Association. Wisconsin leads the nation in the production of canned peas and canned corn.

Throughout all these many years our company has been actively engaged in the growing and processing of canned vegetables and fruit. Our principal products have been peas, corn, and apples. Presently we are confining our operations to peas, lima beans, and apples. It has been our experience that in the processing of these various crops our grower relations have at all times been most harmonious and happy to the extent that at no time were we required to resort to other means for getting our required raw produce for processing.

At various times throughout these many years the question has been brought up that there was need for some control or marketing order to the extent that a governmental agency should direct the handling and pricing of raw products for canning. At no time have we found any of our growers, or for that matter few growers within the State of Wisconsin, of the opinion that there was need for any marketing order or regulation of this type which would in effect be a regimentation. We oppose the purposes indicated in the proposed marketing orders legislation.

The growers throughout our area are operating on a program whereby they have the option of accepting or rejecting our future growers' contract which specifies costs of service as well as prices for raw products and the growers are under no circumstances compelled to sign these contracts unless they find them acceptable.

In the growing of our canning crops we find it necessary to own and maintain a very extensive and elaborate planting and harvesting equipment used in the planting, treating and harvesting of canning crops for our growers. For the use of this equipment and personnel the growers are required to pay a service fee which is approximately 75 percent of the cost of the actual expense, while if they were required to provide themselves with all the equipment necessary for the purpose of seeding, planting, treating and harvesting of canning crops, they would find in the majority of cases that the cost would be beyond their means and they would be unable to avail themselves of this substantial income.

If the control of the quality and quantity of his own raw material is taken away from the canner, he would have no incentive and no reason to provide seed, fertilizer, seed treatment, farm labor and other necessities for the handling of the crop for the reason that he would be at the mercy of some outside group and departmental official to determine his allocation.

The matter of supplying farm help as canners do today in most instances, is very important and must necessarily be arranged a long time in advance of planting and harvesting time. We are today in very short supply of

agricultural help. It may be interesting to note in this connection that 150 years ago in this country we had 85 percent of our people employed in agricultural pursuit while today we have a mere 14 percent. In view of this very reduced number of people employed in agriculture, we have demonstrated the resourcefulness of this country in the production of food in times of emergency and normal times as well. It demonstrates that free enterprise is still the motivating force and the canning industry has been very effective to the end that they have produced ample food at all times at a minimum cost.

As a member of the Wisconsin Farm Bureau Federation representing its fruit and vegetable division, I would like to state that we of this division are not endorsing a program of this type which regiments agriculture and will definitely be to its detriment, but we are making every effort to make the agricultural industry self-supporting and so constituted that it will be able to carry its own particular assignment.

Throughout our many years of canning operation we have been compelled to change from year to year the acreage planted to various canning crops and feel that we are in best position to do so because whatever prices we receive for our commodity will in a large measure determine as to whether or not it is profitable to continue on an expansion program in any item. It is definitely essential that responsibility for the contracting of production, processing and sale of any items in the food line should rest with the individual canner and not be handled by other parties who have no knowledge of canned food marketing.

Mandatory orders, imposed and administered by growers alone, would remove from free bargaining every aspect of canning crop planning and procurement. It would hamper the canner and give to one party control over acreage contracting, quality and grade of raw material, as well as put inspection and grading under the grower control alone.

The canner has the largest investment in the finished product, and he carries all of the risks following packing. He knows about canned food merchandising, yet he is to have control of his own production taken away from him. Administration by groups of growers alone is authorized by this proposal.

These controls by compulsory order may be imposed without the canner's consent, yet he is to be assessed for the costs of their operation by private groups—the large sums exacted are not subject to Congressional supervision—and these assessments may continue indefinitely wholly apart from price levels or production.

Promotion of canned food marketing is the canner's job. To assess him for continual and costly marketing re-

search programs, imposed and run by others, is meaningless. One might as well turn over to the Wisconsin barley growers the production and sale of Wisconsin beer on the theory that barley is used in the production of beer.

As a closing reminder to the members of this Committee, I wish to state that in the days of our fathers it was the custom to put up the winter's food supply in the form of barrels of apples, potatoes, salt pork, and various dried fruits, while today our families throughout the country are enjoying the best of processed foods at all times at their convenience at a very reasonable price. All these good things are the fruits of free enterprise in its true sense. Let us keep it so.

STATEMENT

By Fred M. Moss

[Following is the complete text of the statement prepared for delivery by Mr. Moss.]

My name is F. M. Moss. I am vice president and manager of the Idaho Canning Company, an Idaho corporation of Payette, Idaho. This company owns and operates a plant in Payette, Idaho, and Nyssa, Ore. My company processes principally canned corn.

This company has been in business since 1903, starting from an infant business with a capacity of a few hundred cases of processed foods in any one season to the point now where it packs several hundred thousand cases from several thousand acres of land in an irrigated growing area in southwestern Idaho and eastern Oregon. This company was, to my knowledge, the first company in the West that processed sweet corn. The history of its operations follows the usual pattern of struggling companies—grower and canner struggling together. The capital risked by the few pioneers proved very unfortunate insofar as returns for risking this capital for some 33 years. In other words, its processing operation was not too successful.

In time and through experimentation, it was determined that the area was adaptable to the growing of sweet corn for canning purposes. In this experimentation, it was also necessary to prove that the crop could be grown profitably to the farmers in competition with other crops in order that justifiable returns might be paid them for their efforts. The question of quality of the crops grown in this area and markets were significant, due to the distance of consuming markets and high transportation costs, which had to be absorbed if we were to remain competitive with other areas producing this product.

In the beginning, a small experiment of some 350 acres, with approximately 30 growers forming the nucleus

of our experiment, produced a few thousand cases of finished products. Expansion was only through a very slow return, as markets had to be developed and continuous effort devoted to increasing the yield per acre in order that the farmers might be justified in continuing their cooperation through an adequate dollar return per acre for the efforts expended. As time went on and up to the year 1941 the available acreage in our area was sufficient to extend the operation over some 2,000 acres and then through the impetus of war we were required to make all-out effort in order to meet with the requirements through 1946 of the army and the consuming public as our part in helping to feed the nation.

About the year 1934 in the vicinity of eastern Oregon what is known as the Owyhee project was brought into being through the reclamation department spending a sum of \$21,000,000 in building a dam for water storage and irrigation purposes covering a vast area of sagebrush land of some 200,000 acres. This area was contiguous to our operation at Payette, Idaho, where we already had plant facilities. Naturally in bringing in a new development of such type of land and the birth of a new area took considerable time for settlement. Many crops were tried and many heartaches and disappointments were met.

A further survey of this area and project and the possibilities of further expansion encouraged us. As time went on and after some 5 or 6 years in the development of this area the land soon became in a fertile condition which we felt was sufficient to grow our crops. More people came to the land. More diversification was brought in and has prospered since that time until this one project in the expanse of some 20 years from its inception did return to growers this past year over \$16,000,000 which in itself justified the venture of reclamation and provided homes for many hundreds of families.

In the year 1947 we concluded to enter this area at a considerable fixed investment with the hope that we in turn should receive a fair profit for our efforts, building a processing plant to provide a market for the products of this vast growing community. Naturally this required more acreage and more farmers and the result has been from a small beginning of some 350 acres that the company now requires some 4,000 to 5,000 acres annually for this one crop alone produced from some 350 farms.

We could only accomplish this result by returning to the farmer a fair return and as good a dollar acre as any other crop grown and which has become a very competitive undertaking. This is well known by the tremendous tonnage of sugar beets, potatoes, onions, seed and the dairy industry comprising the production in this area.

The company well knew that it would be necessary to build this producing area through expert knowledge, experimentation, assisting in financing of fertilizer, seed, some equipment and other items to make possible growing more tons per acre and also in producing a higher quality of crop in order for us to successfully compete not only with the products mentioned but to enjoy the markets requiring a higher grade of merchandise and to offset transportation and freight rates and distances to market from the area in which we are located. The results have proven that this development could not have been reached unless all of these things were accomplished. It is also well known that it has been the past history every food processor is confronted with the problem of financing primarily due to the fact that on a one-season crop contracting, preparing land, seeding, and cultivation are done far prior to the time of harvest. A processor is further subjected to the vagaries of the markets, the economic conditions and the hazards attendant to overproduction and under-consumption. Aside from being kept solvent with the hopes of return and continued growth of his business within the area in which he operates, he has a manufacturing problem as to the cost based upon his fixed investment, his volume of operations, his over-head hazards.

Any success that our company and our growers have enjoyed has been built upon the theory of a greater production per acre and the high quality necessary attendant thereto to successfully retain our markets. Through this cooperative theory and with continual application of technical research and assistance in production through such institutions as the National Canners Association and the theory of paying a higher price for a better product thereby returning to the grower the maximum for the best crop produced, has been in our opinion the proof in any measure of any success we have achieved.

In addition to the building of this industry and providing a market for sweet corn for several thousand acres in our area there has also been a further benefit to the growers in the use of the by-products for feeding of livestock and thereby increasing and building other remunerative operations for these growers. In other words, it has been a method where a new country has been born, pioneers have reclaimed land, and foods have been furnished the nation without the necessity of controls and marketing orders.

We want to inject at this point clearly the necessity of quality in the products we receive from the grower and as suggested previously that technical research and assistance to the grower as well as building tonnage per acre unit has been the policy of this company in the years past to in-

duce our growers to expand with us and has received through this method satisfactory returns as compared to all other competitive crops in the area in which we operate.

It has occurred to us that the theory of marketing orders wherein an allocation of acreage and/or determination of time, condition of crop and amounts that could be controlled by special order would defeat the purpose to which we have built our business and provided a market for the growers' products. In my simple language and thinking it is not conceivable to me or I should say to anyone with experience in this business, that a man on the farm producing the crop has sufficient time to learn and to absorb the technical procedure required in processing of canned foods. That there must be a time of harvest, the quantity of harvest and the quality of harvest to accomplish these results is best known to the canner himself. Common sense would dictate that it would be impossible to continue in an area where competing crops are grown that any farmer would grow a crop for any concern in which it was not profitable to a grower. It seems very clear to me that any canning industry cannot continue in business without a source of supply and must justify his position by paying his growers a just return. Our past records over the many years have proven that this method of operation has justified its position that our country has grown, that our farmers have prospered, and further it is our contention that under marketing orders such as is proposed in Title IV would so alter our position that we could not continue to stay in business.

In the processing of sweet corn, which is a perishable crop, the product cannot be stockpiled. If it cannot be canned when it is available it must be dumped or destroyed. Therefore, the time element is all important and must be controlled by the canner himself. Further we are of the opinion under this marketing order that if it was left to the grower to bring in this particular crop and in the condition in which it grows, a serious problem would develop in the matter of surpluses of low grades by which the market is destroyed and the eventual return to the growers would have to be lessened, both interested parties thereby defeating a purpose.

Our records and procedure are an open book. Our growers have prospered; our community has developed. We have provided a market for labor and have our contribution in taxes, community, in schools and all other contribution to the nation and to its economy. It is inconceivable to us that it should be the intent of Congress and its members and to the farm people producing the crops for the canning industry in any way to stop this theory of growth and expansion.

It is perfectly plain that had these controls of canning crops been in effect

we never could have done the job of developing the canning industry in our area and developing a market for our growers. The allocation of acreage would have left us in a stifled position.

In this presentation I am also speaking for our competitors in southwestern Idaho and eastern Oregon who have similar problems and who have assisted in the growth of this area from the few 300 to 400 acres which our company pioneered to a market for the growers of over 15,000 acres of sweet corn in the past 10 years and providing returns to that area of millions of dollars. This we feel could not have been accomplished had there been a marketing order as proposed and which may be projected in your thinking of any further development in an area that is still potentially great and must, through the migration of population, already shown in our western area to have justifiable requirements for the generations to come.

STATEMENT

By Edwin C. Kraus

[Following is the complete text of the statement prepared for delivery by Mr. Kraus.]

My name is Edwin C. Kraus. I am president of the Big Stone Canning Company of Ortonville, Minn., and a director of the Minnesota Cannery Association. Our association represents all the canners of vegetables in Minnesota, and I am authorized to speak for them. A recent poll of this membership showed that they were overwhelmingly in opposition to marketing controls.

At the outset let us make ourselves clear, the canners want nothing from you gentlemen except to be left alone. We are asking no subsidies nor any help from the American taxpayer. Like Greta Garbo, we just want to be left alone.

Any system of controls of canned vegetable crops in Minnesota is not only unthinkable but likewise unworkable. For example, how can the administrator determine what the given yield per acre of corn and peas will be? It varies from year to year. Last year sweet corn production in Minnesota was down 22 percent as the result of poor yields, due to weather conditions. Variations of yields from 2 to 6 ton per acre are not uncommon. In determining what acreage a canner in Minnesota should plant in either peas or corn or both, what average would you use? And if the yield proves greater than the average, what is to be done with the surplus? I know that there is no one in the canning industry that is wise enough to be able to pinpoint yields of corn or peas, and I am convinced that there is no one in government that has these capabilities. In addition, in sweet corn, for

example, the cut per ton will vary from year to year with extremes of from 17 cases a ton to 40 cases per ton. Who can anticipate a year in advance what the production will be under these circumstances?

To argue that controls are necessary to protect the grower is ridiculous. In Minnesota all acreage is contracted for at a given and definite price before it is planted, and a contract is signed by the canner and the grower. If the agreed price is not satisfactory, the grower will not grow for the canner. And bear in mind that all canning crops in my State must of necessity compete against all other crops grown in that area and it is the grower that determines what he will grow and how much he will grow and not the canner. In Minnesota in 1953, 19,500,000 acres were planted to various crops. Out of this entire acreage only 44,491 acres were planted with peas, or about 3 percent, and 82,220 acres to corn, or about 5 percent.

The control of canned vegetables presents many problems. For example, Saturday of this week we contracted for all the requirements for sweet corn seed that we will plant for the crop year 1955. You see the grower of sweet corn said he must know a year in advance of our seed requirements so that he too can produce the seed. The same is true with pea seed. In all earnestness, I ask you how any control authority can undertake such planning.

Our company is 50 years old. In the early 1920's, we canned the first golden corn that was ever canned, and later aided in the crossing of golden bantam with Crosby corn to get the parent cross that is now used in all golden corn. Under marketing control how could this have been done? In 1926 our company processed the first whole kernel corn ever canned. At that time the entire pack of canned corn in the nation approximated 19,000,000 cases of cream style corn. Last year the total pack was 36,000,000 cases of corn with only 18,000,000 cases being cream style. Again, I pose the question, under marketing controls would we now have whole kernel corn?

We are a dynamic not a static industry and humbly ask the American privilege to keep on growing. I have some statistics concerning the cost to the canner of canned food. In 1934 labor, cans, boxes and labeling labor amounted in our operation to 37.3 cents a dozen, basis No. 2's. In 1953 this same cost on a 303 size was 51.5 cents, and on a No. 2 basis would have been 59 cents, or an increase of 58 percent. Our raw products cost increased 136 percent during the same period. Our selling price for the canned product has increased 22 percent. It should be kept in mind when we refer to these figures that the net return to the grower, moreover, is not reflected in these figures. As with the

advent in the past 8 years of high bred seed his yield per acre has increased at least one-third which of course means a greater net return to him.

We have prided ourselves on the fact we are selling to the housewife canned foods cheaper than she was able to buy them in either World War I, World War II, or the Korean conflict and in the face of this record we are likewise returning to the individual farmer growing vegetable crops a greater return than he receives from government subsidized crops.

Perhaps no industry spends more money than does the food industry in promoting its product. We are presently embarking on a great national program to further advise the housewife of the buy she receives in canned foods. A can of peas, corn, tomatoes that will serve four cost less than a package of cigarettes. Let us examine the effect of this bill. Mr. Loos said this before the Senate Agriculture Committee:

"SENATOR ELLENDER. The net effect of this, if it is left in, will be to cause the fruit and other things to be canned to be sold high?

"MR. LOOS. Yes, sir, that is the objective, to get a higher price for the producer.

"SENATOR ELLENDER. And of course it would ultimately mean a higher price to the consumer?

"MR. LOOS. Yes, sir, all of these marketing orders means a higher price to the consumer to get a higher price for the producer."

Gentlemen, as a result of your action are we going to be placed in the embarrassing situation of having to tell our customers, the housewife, that canned foods will no longer be as cheap because of unnecessary government controls?

You gentlemen have a problem, diverted acreage. Our charts and testimony have shown the increase in acreage in canning crops which has resulted solely because there was an increase in the consumption of canned foods. Now we will all agree that there is a definite relationship between price and consumption. Any grocer will tell you how easy it is to price a product off the shelf. In sales we constantly strive to get our product to the consumer at the cheapest possible price. Yet the proponents of this bill not only frankly admit, as did Mr. Loos, that it will raise the price to the consumer, but wish to control our production as well. It follows as logically as does day follow night that a higher price to the consumer will mean less consumption. It also follows that with less consumption there must be a further cut in the acreage of the grower, hence you have magnified the already serious problem of diverted acreage instead of letting a growing industry expand and make use of these diverted acres.

By the same token you have magnified the problem of the canner. It

does not pay, because of fixed overhead, to run a plant at half capacity. For example, if your plant has a fixed overhead of \$100,000 and you pack only 50,000 cases, your overhead is \$2.00 a case. A pack of 100,000 cases reduces it to \$1.00 a case and 200,000 cases reduces it to 50 cents a case. Those who have more than one plant will be forced, because of these high overhead costs, to close plants and run all their allotted production at their remaining plants. The one plant canner will be forced to close his doors. I know you gentlemen in all fairness do not want this grave responsibility upon your shoulders any more than you would wish to be placed in the position of explaining to our satisfied growers why government controls prohibit them from longer growing canning crops that have returned to them a higher yield than did their government subsidized crops.

We have no problem in canned foods that cannot be answered by aggressive salesmanship. If we sold this year one can of peas per month per family it would tax our present production capacity. Two cans of corn per month per family could not be supplied by the existing industry. In the face of this record, gentlemen, can you accept the recommendation of the Department of Agriculture that mandatory controls of this industry are necessary, that we cannot provide if left alone a partial if not complete answer to your diverted acreage problem.

We are convinced that the future of canned foods is bright and that what the industry needs is more salesmanship and less control. The inevitable result of any control will be to increase the cost of merchandising to the canners and to deprive the housewife of a nutritious and economic food.

We submit that the canner who pays the bill is a better judge of what his product should be than any administrator in Washington—or any group of growers who believe the supply of funds of either the government or the canner to be inexhaustible.

QUESTIONS by the

Senate Agriculture Committee

[Following are selected portions of the transcript of questions by members of the Senate Agriculture Committee and the answers by N.C.A. witnesses.]

SENATOR SCHOEFFEL. You have had considerable experience in this phenomenal growth that you have pointed out. Assuming that it is reflected in your graphs or charts, is it your considered judgment, if this legislation would provide for these orders being issued and in the event that they should be issued, would the ultimate price to the consumer increase?

MR. AUSTERN. That is the only result that can take place. That is the objective of the legislation—to increase the price of canned food to the consumer. Mr. Loos appeared before this Committee and said so frankly. That is what is being aimed at here, even though we have done the job, we have increased production, we have given the grower a good return, and we have kept the price of these canned products lower than any other item in the market basket.

SENATOR SCHOEFFEL. Is it your unqualified judgment that if these orders under the type of legislation that comes out here would or could be imposed, the ultimate consumer would pay more money?

MR. AUSTERN. Absolutely. I want to say, Senator, we are not unacquainted with this area of attempted controls. We have been through the mill. We tried it in the early thirties. The Chairman (Senator Aiken) will recall that for two years we tried to work out these agreements. I worked on them for two years. I helped draft the Cling Peach Agreement. We know what they can cover. We know what can go in, and it is the considered judgment of this industry that these marketing orders, these attempts to control whatever the canner may take from every grocer by size, by grade, by quality, irrespective of whether he could sell it—that in the words of the President, they are not "adaptable" to this industry. As far as the inexorable result on the consumer, it can only increase the price. That is what it is intended to do.

SENATOR ELLENDER. To what extent would it increase the returns to growers?

MR. AUSTERN. Ultimately, sir, it will decrease the returns to the grower because the one thing you can quickly do is price yourself out of the market, either on one commodity, which competes with another commodity, or in relation to other foods.

We have done the job and increased production because we have kept the price of canned foods to a point where people will buy them and use them and they are the best buy in the market basket. If you cause us to raise these prices, you will curb production, we will lose our investment, and you will hurt the grower; because what you cannot sell, you cannot process; and what you cannot process, you cannot take from the grower. It is as simple as that.

SENATOR ELLENDER. Would it not cause a shift from growing some of these products where it is economically feasible to areas where the cost would be greater and in the long run the farmer would not get as much? In other words, it would be a loss to him?

MR. AUSTERN. That is absolutely true. That is a penetrating observation because we are confident that you

would cut down production; you would shift it somewhere. Ultimately everybody will lose.

SENATOR WELKER. Mr. Snider, is there any benefit of appeal whatsoever to a court of law in the event of an arbitrary or capricious ruling by a Secretary of Agriculture, regardless of political affiliation?

MR. SNIDER. You would have to refer that question, Senator, to our attorney. I understand there is some type of appeal but I cannot answer the question fully and he can.

SENATOR WELKER. Can you tell me then, sir, whether or not there is an appeal to the court of law in the event of an arbitrary and capricious ruling by a Secretary of Agriculture?

MR. AUSTERN. There is, in the compilation of the Act that we have given you, Senator, a provision for court appeal.

SENATOR WELKER. I am asking you about the bill. Is there anything in the bill that provides for an appeal?

MR. AUSTERN. Not this bill, but this bill enacts that entire 28-page Act that you have before you, sir. In that there is a court review provision, but it is only from things that can be unlawful and not authorized by the Act.

Since the Act permits these control orders, there is in the judgment of the canning industry no adequate recourse to the courts. As far as I know, no case has overruled the Secretary.

SENATOR WELKER. May I ask you this, sir: on any appeal that you might have under this legislation, could the appeal be tried de novo before the court, or do we go back to the fundamental rule that if a factual question was resolved against Mr. Snider and his group, that that would be sustained by the appellate court?

MR. AUSTERN. You have stated it correctly, Senator. The determinations of the Secretary on questions of fact such as allocations are not essentially reviewable.

SENATOR WELKER. And if you had an arbitrary and capricious ruling by any Secretary, you would be put out of business, out of court, and out of everything else, is that correct?

MR. AUSTERN. That is our apprehension.

SENATOR WELKER. I take it that you, Mr. Snider, and your organization believe in a government of laws rather than a government of men.

MR. SNIDER. Yes, sir.

SENATOR WELKER. And in the event of appeal, as has been related here by your counsel, no right to a court of law, it would be in effect a government of men but not of law, would it not?

MR. SNIDER. It is a government by regulation, as I understand it. In other words, authority granted by

Congress to a branch of government, and then we would be under the saddles imposed by that regulation. We wouldn't have any recourse.

I am a firm believer in the right to go to court and the right to an adjudication in a court that can take your life or take your property, but under such procedure as defined here by your able counsel, I go right back to the objection that I have made heretofore on several bills which, in my opinion, gave too much power to an administrative branch.

MR. AUSTERN. Senator, I feel I ought to amplify your question because your point requires it. This is important to us in the matter of appeal. Section 8c(14) and (15), which deal with the appeal, require that Mr. Snider, if he felt that the allocation made to him and his growers was unjustified, he must appeal to the Secretary.

Once the Secretary rules, he does have the opportunity to file a petition in a court.

But the \$500 a day penalty begins to run from the time the Secretary rules against him, so that he would have to hazard the risk of being fined \$50 to \$500 per day all the time that the court proceeding was pending. For the smaller canner that is an insurmountable hazard.

SENATOR WELKER. And it would also really amount to a curtailing of your production until you get an adjudication; and with the work load of the federal courts now all throughout the nation, it might take a long and unreasonable time to have your case heard.

MR. SNIDER. Once this thing got into operation, there would be such a dislocation from one end of the country to the other that even before you got around to where you wanted to appeal, just untold harm would be done.

I mean that all of our planning in the past and our future planning would be completely upset, because you wouldn't know really what to plan, while depending on someone else to do your planning for you.

SENATOR WELKER. Mr. Moss, in the area that we live in, in the wonderful Payette Valley that you and your company have done so much to develop, is it not a fact that the corn grower is the receiver of the first cash crop?

MR. MOSS. That is correct, sir.

SENATOR WELKER. And that is of great advantage to many of our people in our area?

MR. MOSS. Most growers are like canners. They are always pretty low in funds at a certain time of the year.

SENATOR WELKER. Your original plant was in our home town of Pa-

yette, Idaho, and I have already brought out the fact that as your plant grew from a small concern into a good-sized plant, I will ask you if it is not a fact that you and I had the opportunity not so many years ago of going into the State of Oregon to purchase land and for your company to make a great financial investment in the building of another modern processing plant in Nyassa, Oregon?

MR. MOSS. That is correct, sir.

SENATOR WELKER. Why did you go into Oregon, Mr. Moss?

MR. MOSS. Due to the geographical conditions and the future possibilities. In other words, we were pioneering something that we knew in the growth of the quality of the product, that at some future time we would be paid for our efforts, and also the development of a tremendous area, it has been proven, as I testified in my statement, that thousands of areas have now become home areas, and that has developed a great area with a tremendous productive capacity.

We would be stifled under this order. Under an allocation or under a marketing order such as has been proposed, that never could have been accomplished, because in our allocations of acreage we would have to live without our own environments, if that had been the policy of controlling and holding production down, so to speak.

In other words, I can't see the possibility how under the free enterprise system that you ever could have provided the homes for the people, the increased taxes, the increased building of our industries.

It is proven also that we have made a profitable contribution, and the farmers are receiving a profitable return for the crops they grow. That is our theory. Do you agree with me?

SENATOR THYE. You do not need to sell me on that because I was sold on it before you started.

MR. MOSS. Then I wasted a lot of breath and your good time.

SENATOR WELKER. Senator Thye and I are under the necessity of building a good record in the event this matter must be debated on the floor.

SENATOR THYE. That is right.

SENATOR WELKER. The thought has occurred to me that if we did have this allocation and quota control, what would be the chances of increased benefits to the farmer?

MR. MOSS. I don't believe, Senator, that under our method of handling these things that there could be any profitable gain to a grower, either in his dollar return or through the expansion of his efforts.

In other words, if there was a control placed upon it, and we had an acreage allocated, it would rather de-

feat the purpose. It costs the farmer a lot of money to prepare his crop. He has money tied up in equipment.

Supposing a fellow had a 40-acre contract, so to speak, and he had his cultivators, he had his tractors, and he had the other equipment necessary to do that, his land was ready for it. If the allocation should cut him down to 50 percent, which would leave him 20 acres, and his cost of investment is just as great for 20 acres as for 40 acres; therefore, his return basis per dollars per acre as to his fixed investment is naturally going to be lessened.

His profit is going to be less, and by the same token, if we were allocated down in acreage, our fixed investment and the amount of products that we bring in and pack should be allocated down; your costs increase immensely if you lose your production facilities, if you do not produce to capacity.

Overhead remains the same. All of your costs remain the same. All of your expenses remain the same, and all of your fixed salaries are the same. Therefore, your costs have risen, which ultimately must be paid by the consumer—if they pay it.

If they do not pay it, then the farmer himself loses because his crop brings less money, and therefore this defeats the purpose of it.

SENATOR WELKER. If the farmer could control the time and the quality of his product that he brings to your plant, what effect would that have on the compensation to the farmer?

MR. MOSS. Senator, that is a very pertinent question, for this very pertinent reason: some way or another, nature has a way of wanting to ripen products in its own way.

Should the farmer be able to control the time that he brings in a corn crop, it could vitally affect the quality. As the corn ripens, it increases in weight or tonnage per acre as it deteriorates in its tenderness, so to speak. By virtue of proper processing, it means that unbeknown to the farmer himself you have the effect of increasing the volume at a lower price on a lower grade than the people would pay for; and if all the canners of the United States should lower the quality of their product against the tonnage return, it is very conceivable that the cash would thereby materially increase to where you would have an overproduction of a low-grade product, and the loss of money would be great, and the value of that crop drops to the point where the income from that crop isn't enough for the farmer to live on it.

Therefore, if you did produce 25 cases to the acre or 25 cases per ton of fancy goods, by letting it get ripe, by adding water and all the things to

keep your consistency right, it is conceivable you could raise it up to 35 cases per ton. And if you had let the corn get older, so to speak, and let it weigh up to more cases per ton, you would have increased the pack that much more, and it is conceivable that the consuming public would take that much more, but you've let it go at a lower grade and it is conceivable that at the end of the season you would not have sold the lower grade corn.

Therefore, the canner knows best when to bring in the crop. The farmer could not tell you; he doesn't understand it. It is not his business.

Another thing of great importance is that operations in the canning industry are built upon the volume of your production; and if you are unable to keep your plant at full production all the time by having the farmers bring in the flow as you best know how, it would defeat your purposes.

There is the cleavage. The farmer is on one side and the canner is on the other side. You are in the middle. That is testified before you today. Therefore, any control measure is not practicable in this industry. It is not adaptable.

SENATOR WELKER. Mr. Moss, in the beautiful valley that we live in and are acquainted with, it is a fact that you have expert field men who go out at great expense to your company to advise and consult with the growers and tell them when to plant the seed so that the seed will develop at the right time, that your plant will be operating continuously, so that you get the best pack possible from the mature sweet corn, is that correct?

MR. MOSS. That is correct, Senator, and I am glad you brought that out because it is one of the things that the canning industry, not only ourselves, but any successful canner provides all those facilities. That is a technological situation, and it is learned through the development of assistance of the research department of the National Canners Association.

They have learned how the heat units work to bring the seed to maturity. They advise the farmers in their cultivation practices. It is better that they know about that.

It is important. A farmer group could not give you all those facilities because it doesn't know; and the canner has invested his money in that technological aspect to untold amounts of money. And the canners has done much under a free economy to perpetuate himself, selfishly so, and he has to pay the farmer and treat him right.

In other words, there is no need to have someone try to tell us how to run a technical business. It is impossible.

QUESTIONS by the House Agriculture Committee

[Following are selected portions of the transcript of questions by members of the House Agriculture Committee and the answers by N.C.A. witnesses.]

MR. ANDRESEN asked whether the 1937 Act specifically exempts canners from the marketing orders provisions.

MR. AUSTERN. With two exceptions—olives and asparagus—we are at present exempt, and operating under no controls. That is how we did the job we have done.

MR. ANDRESEN suggested that marketing orders regulating canners could not be put in effect without enactment of the proposed legislation.

MR. AUSTERN. May I answer that, Mr. Andresen, by saying if you will strike out Subsection (b) of Title IV—or Section 401, as it is in this Committee print—which tinkers with the definition, destroys our exemption and does one other thing I am about to develop, we will be completely content.

You will observe that Section 401 amends only one section of the Act. The effect of that amendment is to throw all canning crops, all canning fruits and vegetables, under these order controls. You have to follow it through to know it, but we have given you all the citations and no one denies that that is the effect.

MR. ANDRESEN asked whether the objections raised by canners would be met if Section 401 were eliminated from the Committee print.

MR. AUSTERN. Correct, completely. And the objections, I might add, of the freezers, because they are hooked in the same paragraph.

We found some surprise on the part of the Senate group that these research and marketing things were to come out of the assessments, but that is clear from the Department presentation.

MR. ANDRESEN asked if, under existing law, any segments of the fruit and vegetable economy are covered by marketing agreements and orders.

MR. AUSTERN. Referring, I take it, to the processed, sir?

MR. ANDRESEN said he referred to marketing controls on processed foods, like canned peaches.

MR. AUSTERN. As far as I know, at this moment there is no order in effect. There is pending a proposed order for the packing of olives, allocating to every canner what he may pack. That order, as far as I know, has been voted down by the packers. It is now pending before the Secretary of Agriculture as to whether it shall be imposed as a mandatory order without their consent.

MR. ANDRESEN asked if there were any other regional areas, other than

California, where marketing agreements and orders were being proposed.

MR. AUSTERN. I know of no pending proposal for an order. I know that there has been only the expression given by Mr. Loos to this Committee that some growers in some areas have expressed interest in getting this authority. I have heard of no concrete proposal.

MR. COOLEY asked who might be the source of the demand for the marketing orders legislation.

MR. AUSTERN. We do not know, sir.

MR. COOLEY asked if the demand for the legislation had come from any farm organizations or any other particular group.

MR. AUSTERN. I should like to say this. First, this request did not appear in the President's farm message. It first came to our attention when the Aiken bill was presented and when the Committee print was offered by the Department to this Committee. When that Committee print was offered to this Committee, it was accompanied, we understand, by an analysis furnished by the Department. Page 36 of that analysis is the only source I have, and that recites: "This type of regulation has been requested by a number of fruit and vegetable processing groups."

It then refers to the interest expressed by several identified groups, one of which was said to be potato processors who are interested in regulating the quality of potatoes which were sold for freezing and for potato chips. It continues: "The Florida citrus industry, particularly grapefruit producers, have expressed considerable interest in this type of regulation."

MR. ABERNETHY asked if Mr. Austern had been reading from the USDA analysis.

MR. AUSTERN. Yes, sir. We know of no group that has actively sponsored a specific program for a specific commodity. Mr. Benson has not referred to this part of the bill in his discussions.

MR. COOLEY asked whether the Secretary of Agriculture has an advisory committee on fruits and vegetables.

MR. AUSTERN. So far as we know, the National Agricultural Advisory Commission referred to in the President's farm message did not make this recommendation.

MR. COOLEY repeated his question and asked whether Mr. Austern knew of any recommendations by such a committee in favor of this legislation.

MR. AUSTERN. No, sir, we have not.

MR. COOLEY asked whether any farm

organizations had proposed the legislation.

MR. AUSTERN. I understand, sir, that some farm organizations are going to appear here. What they may ask, I do not know. As far as the various farm organizations who have appeared through their national representatives, I have read their statements in an effort to answer this very question. As I read those statements, they have said, "We would very much like to have this authority, period." They have not proposed anything definite. They have not said they have any program for it.

MR. COOLEY asked whether the farm organizations had indicated any necessity for such legislation.

MR. AUSTERN. We can find no such indication, sir, and on this record there could be none.

CHAIRMAN HOPE asked whether the Farm Bureau and other farm organizations have asked that the marketing agreements and orders law be extended to include processing crops.

MR. AUSTERN. That is correct, Mr. Chairman. On various occasions in the last 20 years the general request for this wider authority has been repeatedly made.

MR. COOLEY suggested that such requests had been general rather than specific.

MR. AUSTERN. The only specific request of which I am aware, sir, was in 1947, when the Florida citrus folks asked that citrus for processing and processed citrus be added to the bill. They said that everything was going to collapse if they did not get the order authority.

MR. COOLEY asked if it weren't true that the citrus people were in a desperate situation at that time.

MR. AUSTERN. At that time, sir, we presented evidence at the hearing, and we suggested that if we were left alone, we could do the job. I invite you to look at the job we have done in those seven years.

MR. COOLEY said that canners should not take all the credit and take credit from the farmer for his share.

MR. AUSTERN. We do not take credit for everything, with all due deference. We take credit solely for the job of creating the markets.

MR. COOLEY asked whether Mr. Hipke had said he was head of the fruits and vegetables section of the Wisconsin Farm Bureau Federation.

MR. HIPKE. I did not, sir. I am a member of the commodity group on fruits and vegetables of the Wisconsin Farm Bureau.

MR. COOLEY asked whether the Wisconsin Farm Bureau had taken any position on the marketing orders legislation as proposed in the Committee print.

MR. HIPKE. This particular thing, sir, I think has been new to all of us. We have just recently had a meeting in Wisconsin.

MR. COOLEY suggested that Mr. Hipke and others in Wisconsin had not known about the proposal until it was published in the Committee print.

MR. HIPKE. I can only express, as I did, the general thinking of the committee members, sir.

MR. COOLEY asked if Mr. Hipke was reflecting the views of the Wisconsin Farm Bureau in his statement.

MR. HIPKE. Yes, indeed, I am.

CHAIRMAN HOPE and MR. GATHINGS questioned Mr. Dodds about the California marketing order on cling peaches, and MR. HOPE suggested that the California order might be comparable to one that might be issued under the Agricultural Marketing Agreement Act.

MR. DODDS. Mr. Chairman, orders that might be issued under this proposed legislation are a great deal more severe than the cling peach marketing orders we worked under in California. In that instance the canners have participated in the administration of the order throughout.

CHAIRMAN HOPE asked whether the authority proposed by this legislation would be greater than the authority now exercised by the State of California over canning crops.

MR. DODDS. As I understand it, the proposed legislation would permit grower groups to impose restrictions on the canner, with no voice on the part of the canner, and with the canner obliged to pay the bill—which is not the case under the California marketing order.

MR. POAGE subsequently observed that the production gains for apricots and pears, not under marketing orders, were not greatly different from the increase in production of cling peaches.

MR. DODDS. Mr. Congressman, from these charts the growth in the production of canning peaches has kept pace with the other fruits generally. They are important fruits. The reason expressed for the dissatisfaction with the California marketing order on cling peaches has been that the experience has indicated that it tends to aggravate the condition it was designed to relieve—that is, the condition of surplus peaches.